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Protest of Controversial Art in New York City Museums in 2017-2018:
Reactions, Responses, and Legal/Ethical Obligations of Museums in the Age of #MeToo,
#BlackLivesMatter, and Activism on the Internet.

by

Isabel Rose Telonis

A thesis submitted in conformity
with the requirements for the
Master's Degree in Art Business
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Protest of Controversial Art in New York City Museums in 2017-2018:
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Over the last two years, museums in New York City have experienced a rise in protest and backlash against the display of works of art, particularly those that are perceived as offensive, controversial, and relevant to current sociopolitical issues. This thesis explores three case studies of controversy at the Metropolitan Museum of Art, the Whitney Museum of American Art, and the Solomon R. Guggenheim Museum, all of which faced protest and public criticism over particular works of art and responded in a unique way to their respective scandal.

This study is comprised of an introduction, four chapters, and a conclusion. The first chapter outlines important topics within the field of art law that specifically relate to museum controversies including statutes, legal standards, and precedents set by landmark cases in the United States. The second chapter discusses the controversy that erupted at the Met in 2017 over the display of Balthus' *Thérèse Dreaming* (1938) due to its perceived relevance to sexual abuse and the #MeToo movement. The third chapter explores the controversy over the inclusion of Dana Schutz's *Open Casket* (2016) in the 2017 Whitney Biennial in relation to racism in America and the Black Lives Matter movement. The fourth chapter discusses the controversy at the Guggenheim Museum over three works of art in the 2018 exhibition, *Art and China after 1989: Theater of the World*, where the museum was accused of supporting animal abuse.

By exploring these controversies and analyzing each museum's response, this thesis examines the tensions between legal and ethical obligations that art institutions have to their mission and to the public, as well as provides guidelines for how museums should respond to controversies over works of art in the future.

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INTRODUCTION

Visual art has been subject to controversy for thousands of years. Whether it be in 1565 when the Vatican commissioned an artist to paint clothing onto Michelangelo's nude figures in the *Last Judgment* after his death,¹ Parisians' outrage at the Salon's highly controversial display of Édouard Manet's *Olympia* in 1865 due to her being a prostitute who stares directly at the viewer,² or the Society of Independent Artists in New York's removal of Marcel Duchamp's readymade urinal, *Fountain*, from view in 1917, art has been subject to strong responses being elicited from the public and attempts at censorship throughout art history. In sixteenth- and seventeenth-century Western Europe, artists were even harassed and jailed for creating works of art that criticized the government, the church, and society.³ In contemporary American society, artwork has the privilege of meriting First Amendment protection as a form of freedom of expression under the United States Constitution, yet artwork is still subject to public backlash as well as threats of removal and destruction because of its power to offend.

Each of the controversies at the Metropolitan Museum of Art, the Whitney Museum of American Art, and the Solomon R. Guggenheim Museum in 2017 and 2018 concerned specific works of art that were perceived as offensive – and thus, unethical to display – due to their relevance to sociopolitical issues. We are currently in a time marked by backlash against powerful institutions in which the public is speaking out,

¹ Loren W. Patridge, Gianluigi Colalucci, and Fabrizio Mancinelli, *Michelangelo—the Last Judgment: A Glorious Restoration* (New York: Harry N. Abrams, 1997), 8-9.

² T. J. Clark, *The Painting of Modern Life: Paris in the Art of Manet and His Followers* (London: Thames and Hudson, 1985), 79.

³ Leonard D. DuBoff and Christy O. King, *Art Law in a Nutshell*, 4th ed. (St. Paul, Minnesota: Thompson/West, 2006), 232-233.

especially online, against the illegal and immoral actions of people, industries, and institutions. Since museums belong to this category of institutions who are targets of heightened public criticism, it is imperative to analyze the ways in which they navigate staying true to their mission statement while mitigating controversy.

The museum controversies to be discussed in this thesis demonstrate the tension between ethical concerns and legal standards in institutional responses and decision-making, as well as prove how influential museums' display of certain artworks can be in the context of social movements such as #MeToo, Black Lives Matter, and general activism in the digital age. Analyzing three recent and unique case studies at the most important art institutions in New York City allows one to understand how the role of a museum as a steward of culture has changed in the digital age and current climate of protest, why museums' responses to controversies over works of art matter, and develop best practices and strategies for museums who will encounter controversy in the future.

I. ART LAW: STATUTES, PRECEDENTS, AND LEGAL STANDARDS FOR FINE ART MUSEUMS IN THE UNITED STATES RELATED TO CONTROVERSIES AND THE FIRST AMENDMENT

Images often arouse strong reactions, emotional responses, and lasting psychological effects. Visual art in particular has the power to play upon one's imagination and bring about various feelings in the viewer, both positive and negative. Paintings, sculptures, prints, drawings, photographs, and other forms of visual art have the special ability "to affect even (or perhaps especially) the youngest of viewers, and affect them not just emotionally, but in ways that have long-term behavioral consequences."⁴ Therefore, it has been a widely accepted fact of psychological and physiological study that visual art has the powerful ability to induce potentially far stronger physiological, emotional, and behavioral responses compared to auditory or written stimuli. Auditory, written, and visual speech are protected by the First Amendment, but the visual component becomes particularly important to protect because artwork, a dominant form of visual expression, can prompt visceral and intense reactions from the public.

The First Amendment is considered amongst Americans' most fundamental, important, and cherished rights.⁵ In the United States Constitution, the First Amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a

⁴ David Freedberg, *The Power of Images: Studies in the History and Theory of Response* (Chicago: Chicago University Press, 1989), 5.

⁵ Judith B. Prowda, *Visual Arts and the Law: A Handbook for Professionals* (Burlington: Lund Humphries, 2013), 24.

redress of grievances.”⁶ While this language does not make it particularly clear whether or not artwork falls under the category of free speech and expression, modern courts have recognized that artists “engage in symbolic, or expressive, conduct that is protected under the First Amendment”⁷ to declare that artwork does, in fact, merit constitutional protection. It is significant, however, that artwork does not always merit the same level of protection as verbal or written speech and that not all works can be legally protected.

Artwork that is considered obscene does not merit First Amendment protection. Obscenity is a criminal offense in common law countries such as the United States, so if artwork is determined to be obscene, it is subject to state regulation and potential lawsuits from offended parties. The Miller Test, a standard that modern courts currently use for obscenity cases, was adopted in 1973 as a result of landmark case *Miller v. California*.⁸ In this case, Miller, the defendant, sent out brochures that contained pornographic material to unwilling recipients, many of whom reported it to the California police. The trial court convicted Miller of violating California Penal Code that “prohibited the unsolicited distribution of obscene material.”⁹ Miller appealed, and as a result of this case, the Supreme Court limited the scope of obscenity regulation by creating a three-prong test to determine whether or not a work of art is considered obscene by law:

- (1) Whether the average person applying local community standards would find that the work, taken as a whole, appeals to the prurient interest,
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and

⁶ “First Amendment,” *LII at Cornell Law School*, Published October 10, 2017, Accessed June 22, 2018, https://www.law.cornell.edu/constitution/first_amendment.

⁷ Prowda, *Visual Arts and the Law*, 25.

⁸ The Miller Test replaced the Roth Test, which was developed out of *Roth v. United States* and looked at “whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to the prurient interest” wherein the “community” referred to the national standard. (source: Prowda, *Visual Arts and the Law*, 24.)

⁹ Prowda, *Visual Arts and the Law*, 27.

(3) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.¹⁰

In terms of the second prong, the court outlined examples for the states of how “sexual conduct” can be defined:

- (a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and
- (b) patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals.¹¹

The appellate court affirmed the trial court’s decision that Miller distributed obscene material, and this lawsuit now serves as legal precedent in the United States as it provides courts with enforceable standards to determine whether or not works of art are obscene and therefore lack First Amendment protection. These standards are imperative to keep in mind when potentially offensive or controversial works of art are displayed in museums today, as there are no legal grounds for suing the museum for obscenity unless the work of art in question satisfies each of the prongs set forth by the Miller Test.

One of the most significant and influential cases in the field of art law that relates directly to the issue of museums displaying controversial and potentially obscene works of art is *Brooklyn Institute of Arts and Sciences v. City of New York*. In September of 1999, the Brooklyn Museum put on an exhibition, *Sensation: Young British Artists from the Saatchi Collection*, which included works by Turner Prize winning-artists Damien Hirst, Rachel Whiteread, and Chris Ofili, to name a few. Solely on the basis of the exhibition catalogue, Mayor Rudolph Giuliani publicly condemned the show for including works that he viewed as highly offensive.¹² Giuliani found Chris Ofili’s 1996

¹⁰ Prowda, *Visual Arts and the Law*, 27.

¹¹ Prowda, *Visual Arts and the Law*, 27.

¹² Prowda, *Visuals Arts and the Law*, 31.

painting, *The Holy Virgin Mary* (Figure 1), to be particularly “sick,” “objectionable,” and anti-Catholic.¹³

Ofili’s painting is a larger-than-life depiction of the Virgin Mary represented as a black woman with exaggerated features; one that highly deviates from the traditional depiction of Mary throughout Western art history. Furthermore, the background of the composition contains collaged images of female genitalia and the canvas is supported by two large pieces of elephant dung. Giuliani was determined to punish the museum for displaying this work, stating, “we will do everything that we can to remove funding from the [museum] until the director comes to his senses...and realizes that if you are a government subsidized enterprise then you can’t do things that desecrate the most personal and deeply held views of the people in society.”¹⁴

As a result of the threats made by the City of New York and Mayor Giuliani, the Brooklyn Museum sought to protect itself by filing a suit in the federal district court “seeking declaratory judgment and injunctive relief to prevent the defendants from retaliating against the museum for exhibiting *Sensation* in violation of its First Amendment rights.”¹⁵ Two days later, Giuliani and the City of New York cut monthly funding for the Brooklyn Museum, sued the museum for violating its lease agreement in hopes of evicting it from the city-owned building, and filed a motion to dismiss the museum’s lawsuit. The New York federal district court denied the defendant’s motion to dismiss and held that the City of New York violated the Brooklyn Museum’s First Amendment rights when it cut funding, stating that the “communicative power of visual

¹³ Leonard D. DuBoff and Sherri Burr, *Art Law: Cases and Materials*, ed. Michael D. Murray (Frederick: Aspen Publishers, 2010), 357.

¹⁴ DuBoff and Burr, *Art Law: Cases and Materials*, 357.

¹⁵ Prowda, *Visual Arts and the Law*, 32.

art is not a basis for restricting it but rather the very reason it is protected by the First Amendment.”¹⁶

The court repeatedly emphasized that visual art that is not considered legally obscene by standards set forth by *Miller* merits First Amendment protection, and that just because certain individuals are personally offended by a work does not mean that the work is subject to removal from an exhibition. According to United States law, the government may place a reasonable time-place-manner restriction on a public forum’s, such as a museum, use, but the restriction must be content neutral, viewpoint neutral, and must burden speech “no more than is necessary to serve an important government interest.”¹⁷ In *Brooklyn Institute of Arts and Sciences v. City of New York*, the city government was attempting to suppress freedom of speech through a time-place-manner restriction, but the court held that the defendant committed viewpoint discrimination, meaning they only suppressed certain individuals with whom they personally disagreed or opposed. This landmark case serves as precedent for all museum controversies today to demonstrate that unless the works are considered obscene by law, a city government cannot threaten to remove funding from a museum simply because that government disagrees ideologically with certain works on view.

The captive audience doctrine is another aspect of United States law that is essential to the topic of museum controversies. It states that if art is exhibited in a location where people have no choice but to look at the work, they become unwilling viewers of that work and are therefore considered a captive audience. This serves as a

¹⁶ Prowda, *Visual Arts and the Law*, 32.

¹⁷ Judith B. Prowda, “First Amendment Art & Obscenity; Controversial Art,” Lecture, Sotheby’s Institute of Art, New York, January 29, 2018.

reminder that not only are Americans given the constitutional right to freedom of speech and expression, but they are also given the right *not* to see, hear, or view something.¹⁸ The captive audience doctrine therefore serves as a restriction to the First Amendment because artwork can still be subject to regulation under this doctrine even if the work is not considered legally obscene.

An example of a legal case in which artwork did not merit First Amendment due to there being a captive audience situation is *Close v. Lederle*. This 1970 lawsuit arose because of an exhibition that Chuck Close put on at University of Massachusetts while he was an art professor, prior to reaching his current level of recognition and fame. Many of Close's paintings in the exhibition contained images of graphic nudity in "clinical detail"¹⁹ and were displayed in a public corridor in the Student Union that young adults, students, and minors had to walk through on a daily basis. The paintings were removed by the school only five days into the twenty-four day exhibition period, so Close sued the school for a mandatory injunction claiming that his First Amendment rights were violated seeking to re-install the exhibition for its entire duration. The district court sided with Close and held that his exhibition should remain on view for the full twenty-four day period.²⁰ The school appealed, however, and the decision was soon reversed with the court holding that the students' right *not* to view his graphic paintings was "entitled to greater protection than [the] plaintiff's art" and that the display of the works in that

¹⁸ Prowda, *Visual Art and the Law*, 33.

¹⁹ Prowda, *Visual Arts and the Law*, 33.

²⁰ Patty Gerstenblith, *Art, Cultural Heritage, and the Law: Cases and Materials*, 3rd ed. (Durham: Carolina Academic Press, 2012), 36-37.

particular corridor created a captive audience situation where officials had to protect against “assault upon individual privacy, short of legal obscenity.”²¹

Museums can avoid captive audience situations and subsequent lawsuits by putting potentially offensive or controversial works of art in spaces separate from the main exhibition rooms with signs or disclaimers indicating that some viewers might find the works offensive, disturbing, or inappropriate.²² In some cases, museums have indicated that visitors who are under eighteen years old should be cautious when entering certain rooms with art that may be unsuitable for minors. By taking these steps, museums are both ensuring the comfort and psychological well-being of their visitors and protecting themselves against potential lawsuits over captive audience situations.

It is critical to have a firm grasp on relevant legal statutes, standards, and precedents set by landmark cases in working in, studying, and learning about museums. There are seemingly endless museum activities and operations that involve counsel or major legal considerations to be made, including when the public reacts strongly to, petitions against, or even protests against certain controversial works of art on view.²³ Only once one understands fundamental principles in art law, especially the privileges of the First Amendment as well as its restrictions, can one analyze museum controversies today and create a viable solution that satisfies all parties, such as the people that are

²¹ *Close v. Lederle*, 424 F.2d 998 (1st Cir. 1970).

²² The Contemporary Arts Center in Cincinnati, Ohio put on an exhibition called the *Perfect Moment* of Robert Mapplethorpe’s photographs in 1990. In the exhibition were five works, referred to as the “five S&M pictures,” that contained child nudity and sadomasochistic imagery. These five photographs were excluded from the exhibition catalogue as well as displayed in a separate gallery space to avoid a captive audience situation. Nevertheless, the Contemporary Arts Center was sued for obscenity, but prevailed in the lawsuit with the court holding that the five photographs had to be judged individually and thus the exhibition “taken as a whole” could not be deemed legally obscene.

²³ Stephen E. Weil, *Beauty and the Beasts: On Museums, Art, the Law, and the Market* (Washington, D.C.: Smithsonian Institution Press, 1983), 133.

offended by controversial works, the museum displaying the controversial works, and, most importantly, the law.

II. CASE STUDY 1: BALTHUS' *THÉRÈSE DREAMING* CONTROVERSY AT THE METROPOLITAN MUSEUM OF ART AND WHY IT MATTERS IN THE AGE OF #METOO

i. Description of Event

The Metropolitan Museum of Art is one of the most revered, celebrated, and well-known museums across the globe. Open to the public since 1880 in its Fifth Avenue location, the Met has been home to significant objects and diverse works of art from over five thousand years of history and has served as a cultural landmark of New York City. However, the Met's major success and recognition does not shield it from the occasional controversy or public scandal. In fact, controversies over works of art displayed in the Met are relevant to the larger conversation about sociopolitical issues and can even cause the public to question what the role of an influential cultural institution should be in today's society.

Balthasar Klossowski de Rola (1908-2001), or Balthus, was and remains a controversial artist who is most well-known for his paintings depicting felines and sexually suggestive young girls. In 2013, the Metropolitan Museum of Art held an exhibition entitled *Balthus: Cats and Girls—Paintings and Provocations* consisting of paintings of this subject matter alone. On that occasion the Met described Balthus' depictions of young girls as “mingl[ing] intuition into his young sitters' psyches with an erotic undercurrent and forbidding austerity, making them some of the most powerful depictions of childhood and adolescence committed to canvas.”²⁴ While that description of Balthus' paintings is positive and solidifies his importance in the art historical canon of

²⁴ “Balthus: Cats and Girls—Paintings and Provocations, September 25, 2013—January 12, 2014,” *The Metropolitan Museum of Art*, Published September 20, 2013, Accessed August 27, 2018, <https://www.metmuseum.org/press/exhibitions/2013/balthus>.

the twentieth century, his works are also criticized for being inappropriate and overtly pedophilic. Thus, the Met put up a plaque at the entrance of their 2013 exhibition warning visitors that some might find the works “disturbing.”²⁵ By doing this, the Met successfully avoided a captive audience situation because the museum provided visitors the opportunity not to view the exhibition if they knew they might be sensitive to such subject matter.

One of the works in this 2013 exhibition was *Thérèse Dreaming* (1938) (Figure 2). It depicts a young girl, age twelve or thirteen, sitting on a chair while deep in thought. Her left leg is propped up on a chair, causing her skirt to pour over her stomach and reveal her white underwear. Underneath her is a cat lapping at a bowl of milk, symbolizing promiscuity and sexuality, serving as another reference to female genitalia. While objectively an impressively rendered painting, many viewers find the subject matter shocking and inappropriate as it ultimately sexualizes a pre-pubescent girl who may have been forced to expose her underwear to a powerful adult man.

Thérèse Blanchard, the subject of Balthus’ painting, was Balthus’ neighbor in Paris. Thérèse served as the model for a series of his paintings completed between 1936 and 1939, which are considered by Sabine Rewald, curator of the Met’s *Balthus: Cats and Girls—Paintings and Provocations* exhibition and Balthus scholar, to be some of his “finest portrayals of adolescents” with *Thérèse Dreaming* (1938) being the most “masterly” of the series.²⁶ Thérèse was between the ages of ten to fourteen years-old

²⁵ Eileen Kinsella, "The Met Says 'Suggestive' Balthus Painting Will Stay After Petition for its Removal is Signed by Thousands," *ArtNet*, Published December 5, 2017, Accessed June 5, 2018, <https://news.artnet.com/art-world/met-museum-responds-to-petition-calling-for-removal-of-balthus-painting-1169105>.

²⁶ Sabine Rewald, "Balthus's Thérèses," *Metropolitan Museum Journal* Vol. 33 (1998): 305-14, doi:10.2307/1513021.

during this period of time while Balthus was in his early thirties, causing many to view this relationship as pedophilic due to the vast age difference between them and the power that an adult male could have over a young female model.

Thérèse Dreaming (1938) is a complicated work of art. Art critic Peter Schjeldahl describes the painting as “seeth[ing] with prurience,”²⁷ recalling the language of obscenity law which forces one to question whether or not this work could be deemed legally obscene.²⁸ While *Thérèse Dreaming* (1938) potentially “appeals to the prurient interest,”²⁹ the work would not be considered obscene by *Miller* standards. This painting is more morally confusing than other erotic works of his because it does not depict outright sexual acts nor is it universally viewed as explicit, therefore it leaves many viewers conflicted about how to feel about its subject matter. For example, Balthus’ 1934 painting *The Guitar Lesson*³⁰ depicts a woman with exposed breasts strumming the genitalia of a young girl sprawled across her lap as if she were a guitar, a work that displays blatantly erotic imagery and leaves no confusion within the viewer as to whether or not this is inappropriate or potentially sexually abusive. *Thérèse Dreaming* (1938), however, is more morally challenging because the work can be viewed either as a blatant display of pedophilia or not inappropriate at all. It is also unclear if Balthus used his power as an older male to force young Thérèse to expose her underwear, which would

²⁷ Peter Schjeldahl, “Moral Conundrums and Political Passions,” *The New Yorker*, Published January 1, 2018, Accessed July 18, 2018, <https://www.newyorker.com/magazine/2018/01/01/moral-conundrums-and-political-passions>.

²⁸ Interestingly, Met curator of the 2013 Balthus exhibition, Sabine Rewald, has stated that she does not find anything about Balthus’ work to be “prurient” or “offensive.” In fact, she thinks it is “totally ridiculous” that the press has described his work in this way, and believes that in works like *Thérèse Dreaming* are “tongue in cheek.” (source: Nadja Hansen, “Balthus: Cats and Girls—Interview with Curator Sabine Rewald,” *The Metropolitan Museum of Art*, Published December 23, 2013, Accessed August 27, 2018, <https://www.metmuseum.org/blogs/now-at-the-met/features/2013/sabine-rewald-interview>.)

²⁹ Prowda, *Visual Arts and the Law*, 27.

³⁰ Image of *The Guitar Lesson* is not included due to its disturbing imagery.

constitute sexual abuse, or if Thérèse's pose just demonstrates how young girls naturally sit as both Balthus himself and Sabine Rewald claim,³¹ adding another layer of confusion.

ii. Mia Merrill's Petition

While many of Balthus' contemporaries accepted, or at least ignored, his deviances or inappropriate behavior, we are now in a time "marked by a widespread and intense determination, at last, to strip every shield and alibi from sexual abusers."³² That is precisely what two sisters, Mia Merrill and Anna Zuccaro, set out to do in November 2017. Spearheaded by Merrill, the sisters created a petition against *Thérèse Dreaming* (1938) directed at the Metropolitan Museum of Art demanding that the museum either remove the work or provide more context in the wall text accompanying the painting. Merrill states that during her visit to the Met, she was "shocked to see a painting that depicts a young girl in a sexually suggestive pose,"³³ and asks that "if you are a part of the #MeToo movement or ever think about the implications of art on life,"³⁴ to support her petition. She even makes the strong assertion that "given the current climate around sexual assault and allegations that become more public each day, in showcasing this work for the masses without providing any type of clarification, the Met is, perhaps unintentionally, supporting voyeurism and the objectification of children."³⁵ Merrill is astutely relating the psychological and physiological effects of visual art to the #MeToo

³¹ Hansen, "Balthus: Cats and Girls."

³² Schjeldahl, "Moral Conundrums."

³³ Mia Merrill, "Metropolitan Museum of Art: Remove Balthus' Suggestive Painting of a Pubescent Girl, Thérèse Dreaming," *Care2 Petitions*, Published November 30, 2017, Accessed March 1, 2018, <https://www.thepetitionsite.com/157/407/182/metropolitan-museum-of-art-remove-balthus-suggestive-painting-of-a-pubescent-girl-th%C3%A9r%C3%A8se-dreaming/>.

³⁴ Mia Merrill, Twitter post, November 30, 2017, 4:57 p.m., <https://twitter.com/miazmerrill/status/936353634211844096?lang=en>.

³⁵ Merrill, "Metropolitan Museum of Art."

movement and stating that museums play a role in the larger narrative of sexual abuse controversies that are coming to light in today's society.

Merrill vehemently believes that *Thérèse Dreaming* (1938) is, in fact, an overtly sexual painting and that because the Met had a plaque warning viewers of the potentially disturbing imagery for their 2013 show, *Balthus: Cats and Girls—Paintings and Provocations*, the museum should also provide a similar disclaimer for *Thérèse Dreaming* (1938) – which was included in that exhibition – if not remove the work entirely. She hopes that if the Met complies with her request to re-contextualize the work, there could be a brief line included in the wall text reading, “some viewers find this piece offensive or disturbing, given Balthus’ artistic infatuation with young girls.”³⁶ The petition has received over 11,600 signatures³⁷ of Merrill’s 12,000 goal, but despite this high number of supporters, the Met refused to remove *Thérèse Dreaming* (1938) or change the wall text for the work.

iii. The Met’s Response

The Met’s Communications Director, Kenneth Weine, released this statement in response to this controversy:

The Metropolitan Museum of Art’s mission is to ‘...collect, study, conserve, and present significant works of art across all times and cultures in order to connect people to creativity, knowledge, and ideas.’ Moments such as this provide an opportunity for conversation, and visual art is one of the most significant means we have for reflecting on both the past and the present, and encouraging the continuing evolution of existing culture through informed discussion and respect for creative expression.³⁸

³⁶ Merrill, “Metropolitan Museum of Art.”

³⁷ As of November 2018, though the petition is now closed.

³⁸ Kinsella, “The Met Says ‘Suggestive’ Balthus Painting Will Stay.”

Evoking the museum's mission statement as a defense for why *Thérèse Dreaming* (1938) will remain on view, Weiss boils the issue down to the simple facts that visual art has First Amendment protection and has served as a vital educational tool. While his statement is quite formulaic and predictable, it is effective at affirming art's significant ability to educate and spark important conversations, particularly about difficult or sensitive issues.

Newly appointed President and Chief Executive Officer of the Met, Daniel Weiss, spoke about the Balthus controversy in an interview with *Artnet News*. Weiss acknowledges that Balthus' *Thérèse Dreaming* (1938) received strong public backlash for "perfectly legitimate reasons" given that thousands of people signed Merrill's petition, but reaffirms that Balthus is an important part of twentieth-century art history and that the Met has collected and exhibited his works for a long period of time. One particularly notable section of Weiss' response to the controversy from this interview is:

[The Met's] goal is...not to avoid controversy...that isn't the kind of freedom of expression that [we] are committed to...Instead, our commitment is to the responsible presentation of ideas and objects that enlighten and enrich our experience as human beings, and there's no question that Balthus does that. So we will continue...to present objects and exhibitions that will offend some people...I also take seriously the concerns that people have that some works of art are offensive to them, and I invite them not to see those works of art. They can leave the gallery, they can turn away, they can even organize a petition or write an article. All of those we celebrate. That's part of what our society is dedicated to.³⁹

Weiss directly addresses two paramount legal issues discussed in Chapter 1: artwork being protected by the First Amendment as a form of free expression and the captive audience doctrine. Weiss strongly, but compassionately, states that the Met values

³⁹ Andrew Goldstein, "Met CEO Daniel Weiss on the Met Breuer's Future, and Whether Affirmative Action Has a Place in the Museum World," *ArtNet News*, Published May 9, 2018, Accessed June 1, 2018, <https://news.artnet.com/art-world/metropolitan-museum-of-art-ceo-daniel-weiss-part-two-1281629>. (For full statement, see Appendix 1.)

freedom of expression more than the potential that individuals will take offense to works of art, but encourages these individuals to either choose not to view the work or express their concerns publicly, as Merrill did through her petition. What the opposition would argue, however, is that based on the captive audience doctrine, if the Met does not present any sort of disclaimer before entering the gallery that *Thérèse Dreaming* (1938) is displayed in, no one will have the chance to avoid viewing the painting entirely.

Later in the interview, Weiss speaks more candidly on the current social climate of people calling out institutions, people in power, or things that offend them now more than ever, stating:

I do worry that we live in a time where people want to avoid being confronted by ideas they disagree with...we're losing the ability to live in a society where freedom of expression is something we navigate on a day-to-day basis as part of what it means to live in a functioning democracy. Our job as an art museum is to contribute to that main wellspring of cultural, intellectual richness by bringing forward programming that both inspires and offends.⁴⁰

Like Weine, Weiss also refers to the Met's mission statement as a defense of keeping Balthus' painting on view, but uses more frank and informal language compared to Weine. Weiss candidly expresses his fears as the CEO of a world-renowned art museum that contemporary society does not value freedom of expression as much as it once did, thereby putting art institutions that often intentionally display controversial works of art in a difficult position.

iv. Public Reactions to the Petition and the Met's Decision

Given that we are in a digital age where information is easily and quickly disseminated anywhere in the world via the Internet, this controversy, and the subsequent

⁴⁰ Goldstein, "Met CEO Daniel Weiss."

responses of the Met, are being widely discussed and debated online. Various art world writers, critics, organizations, and citizens alike have expressed whether they support or oppose the Met's refusal to remove or "re-contextualize" the wall text for Balthus' *Thérèse Dreaming* (1938).

The New York Times art critic Ginia Bellafante stated that the Met's decision not to remove the painting "contradicts the ethos of an age in which we have increasingly sought to understand the moral framework in which nearly everything we consume has been made,"⁴¹ emphasizing that art historians and viewers must not forget that models are real people. Bellafante reminds the reader that Thérèse was only twelve or thirteen years-old posing for an adult male who was infamous for using young girls as models – a fact that should make most people feel uneasy. When one imagines a real, pre-pubescent child sitting in a seductive pose for hours being watched by a much older man, it brings up uncomfortable feelings and should cause one to morally question whether or not this constitutes inappropriate behavior and, consequently, whether or not this painting should be displayed.

Frieze contributor Lauren Elkin writes that it is difficult to view this work through the lens of feminism because it is impossible to ignore its sociopolitical relevance in today's society, referring to the #MeToo movement. Elkin questions how one can justify celebrating Balthus' work without defending people like Roy Moore, and stated that she, as a feminist, felt "pulled" to support Merrill's petition.⁴²

⁴¹ Wendy Steiner, "Artists' models are real people – we mustn't forget this when we look at art," *Apollo Magazine*, Published February 14, 2018, Accessed June 23, 2018, <https://www.apollo-magazine.com/artists-models-are-real-people-we-mustnt-forget-this-when-we-look-at-art/>.

⁴² Lauren Elkin, "Showing Balthus at the Met Isn't About Voyeurism, It's About the Right to Unsettle," *Frieze*, Published December 19, 2017, Accessed June 23, 2018, <https://frieze.com/article/showing-balthus-met-isnt-about-voyeurism-its-about-right-unsettle>.

Ultimately, however, Elkin decided that she supports the Met's decision because she has issues with the language of Merrill's petition; particularly that it "thwarts real engagement [and]... certainly runs counter to everything that makes art art."⁴³ Merrill's petition, while well-intentioned, essentially proposes that if someone does not support her efforts to remove *Thérèse Dreaming* (1938), then he or she is part of the problem of "supporting voyeurism and the objectification of children."⁴⁴ Elkin sharply points out that if the Met did do as the petition asked and included a warning or disclaimer in the painting's wall text, the viewer would be "robbed...of their freedom to encounter the work of art in whatever way it addresses them...they may feel implicated in the perversion, and resentful, or ask themselves what's wrong with them that they weren't offended. Or they might think, 'actually yes, I do feel offended!'" Implementing Merrill's demand to alter the wall text would essentially be forcing opinions on the viewer, coercing one to view the work through the lens of sexual abuse rather than allowing one to derive one's own meaning from it.

The National Coalition Against Censorship,⁴⁵ whose mission statement is to "promote freedom of thought, inquiry and expression and oppose censorship in all its forms,"⁴⁶ released a press statement in support of the Met that directly addresses art's Constitutional protection and the role of an art museum in today's society. Passages from the official statement read:

⁴³ Elkin, "Showing Balthus at the Met."

⁴⁴ Merrill, "Metropolitan Museum of Art."

⁴⁵ There are specific divisions within the NCAC that relate directly to the Met's predicament, such as the Arts Advocacy Program, which defends public access to controversial works of art, or the Free Expression Network (FEN), which protects the First Amendment and opposes the public's efforts to suppress it.

⁴⁶ "What We Do," National Coalition Against Censorship, Accessed June 1, 2018, <https://ncac.org/project/what-we-do>.

The protesters' claim that displaying the painting implies institutional approval of an unhealthy sexualization of young women also fundamentally misconstrues the role of cultural institutions, which is to facilitate a diverse public's engagement... Recent cases of censorship...reveal a disturbing trend of attempts to stifle art that engages difficult subjects. NCAC applauds The Met's refusal to bow to its critics.⁴⁷

The NCAC emphasizes that *Thérèse Dreaming* (1938) should not be removed because the purpose of art, and one of the major roles of art museums, is to spark discussions about uncomfortable topics and finds it “disturbing” that individuals are attempting to suppress the public from viewing controversial art. The NCAC, like Elkin, strongly believes that viewers should have the chance to come to their own conclusions about the work rather than being told what to think or feeling guilty for not finding the painting offensive. Nora Pelizzari, a spokeswoman for the NCAC, makes the Coalition's bottom line clear: “Everyone is allowed to react to art in exactly the way they naturally do...where we intervene is when you try to impose your reaction to a piece on others' ability to see it.”⁴⁸

While some writers, critics, museum professionals, or other civilians responding to this controversy can understand both Merrill's and the Met's sides of the story even if they may agree more strongly with one, others are entirely unsympathetic to Merrill's petition. Writer Jonathan Jones from *The Guardian* goes so far as to call Merrill and Zuccaro “fascists” for trying to ban art. Jones argues that the sisters put their petition in the context of “whistleblowing, revulsion and avowed reform that has swept the arts since

⁴⁷ “NCAC Applauds The Metropolitan Museum of Art's Refusal to Remove Painting,” National Coalition Against Censorship, Published December 4, 2017, Accessed June 1, 2018, <https://ncac.org/news/press-release/ncac-applauds-the-metropolitan-museum-of-arts-refusal-to-remove-painting>. (For full statement, see Appendix 2).

⁴⁸ “Has #MeToo Gone Too Far? The Case Against Censoring Art,” PEN America, Accessed September 18, 2018, <https://pen.org/press-clip/has-metoo-gone-too-far-case-against-censoring-art/>.

the exposure of producer Harvey Weinstein's predatory behavior,"⁴⁹ and argues that a painting is not at all the same as an actual case of sexual assault, thus we cannot give them the same amount of criticism. He questions why Merrill's petition would not call for the removal or re-contextualization of famous artworks that actually depict sexual assault, such as Titian's *Rape of Lucretia*, Bernini's *Apollo and Daphne*, or Matisse's *Nymph and Satyr*, instead of Balthus' *Thérèse Dreaming* (1938) which does not overtly depict such assault. All in all, Jones believes that it is healthy to criticize and argue over art, but "forbidding it should be left to the fascists."⁵⁰

v. Analysis of the Met's Decision and Response

Given the Met's mission statement and its commitment to protecting art as freedom of expression, the museum was justified in its decision not to remove Balthus' *Thérèse Dreaming* (1938).⁵¹ At its core, this a First Amendment issue, and *Thérèse Dreaming* (1938) deserves its Constitutional protection as a work of art that is not considered obscene by legal standards. The museum's response, both in the forms of Communications Director Kenneth Weiner's and President and CEO David Weiss' official statements, was well-conceived and professional. The Met cleverly used its mission statement and the First Amendment as defenses of keeping *Thérèse Dreaming* (1938) on view, while also recognizing that it is a controversial painting that may offend people. Additionally, the Met asserts that it celebrates public criticism, backlash, and

⁴⁹ Jonathan Jones, "Arguing over art is right but trying to ban it is the work of fascists," The Guardian, Published December 7, 2017, Accessed June 15, 2018, <https://www.theguardian.com/artanddesign/2017/dec/07/arguing-over-art-is-right-but-trying-to-ban-it-is-the-work-of-fascists>.

⁵⁰ Jones, "Arguing over art."

⁵¹ *Thérèse Dreaming* (1938) is currently not on view at the Met, however, because it is part of a Balthus retrospective at Fondation Beyeler in Switzerland that runs through January 2019.

even petitions because the museum is dedicated to fostering conversations about challenging issues through works of art. The Met neither criticized nor demonized Merrill for creating a petition against the museum, but rather compassionately acknowledged that she had “perfectly legitimate reasons”⁵² for doing so. Significantly, however, the Met never mentioned the phrases “#MeToo” or “sexual abuse” in the official statements, perhaps avoiding being falsely affiliated with sexual abuse or affirming that *Thérèse Dreaming* (1938) does, in fact, represent such abuse.

In terms of “re-contextualizing” the wall text⁵³ for *Thérèse Dreaming* (1938), the Met was also justified in its decision not to alter it, although the museum does not directly address this request of Merrill’s in any of its statements. The Met should have commented on the reasons why it refused to leave the wall text alone as it would clarify the museum’s position even further. Ultimately, changing the wall text to include a line about how some viewers may find the work offensive would only cloud one’s ability to form his or her own opinions about the work by forcing an expectation on the viewer that he or she *should* find it disturbing. Similarly, if this work were to have a disclaimer of sorts in its wall text, that would mean the wall texts for thousands of other works in the Met that also have the potential to offend should be changed as well. The same domino-

⁵² Goldstein, “Met CEO Daniel Weiss.”

⁵³ Feminist activist art group, the Guerilla Girls, recently addressed this same issue of re-writing wall texts for works of art created by alleged sexual abusers, specifically Chuck Close. They refer to this initiative as a way to help museums “contend with #MeToo” and “reimagine” museums’ responses to the movement, which took the form of a poster with different options for wall texts for Close’s *Portrait of President Bill Clinton* (1992). The Guerilla Girls provided three wall texts aimed at “museums afraid of alienating trustees and collectors who donated the artist’s work,” to “museums conflicted about disclosing an artist’s abuse next to his art,” to “museums who need help from the Guerilla Girls” with content to match each situation. The Guerilla Girls’ bold statement is directly relevant to Mia Merrill’s petition and her request for the Metropolitan Museum of Art to change the wall text of Balthus’ *Thérèse Dreaming* (1938). (source: Javier Pes, “The Guerilla Girls Are Helping Museums Contend With #MeToo. Read Their Proposed Chuck Close Wall Labels Here,” *ArtNet News*, Published September 26, 2018, Accessed September 26, 2018, <https://news.artnet.com/art-world/the-guerilla-girls-help-museums-contend-with-metoo-chuck-close-1356403>.)

effect argument can be used to defend *Thérèse Dreaming* (1938)'s removal, and as art critic Jerry Saltz once said, "one of the things that makes art so rich, infinite, and all-embracing is that there's always something to offend someone somewhere sometime. When that ends, so will art."⁵⁴

vi. Why This Controversy Matters in the Age of #MeToo

It is evident that the controversy over Balthus' *Thérèse Dreaming* (1938) at the Metropolitan Museum of Art is an integral part of the larger, and currently prevalent, #MeToo movement. Museums, as stewards of culture, display objects from many time periods and civilizations to educate the public and serve as a haven for cultural immersion and enjoyment. They are regarded as important pillars of society that are necessary to every cultural capital of the world. Thus, it is significant when the most renowned museum in New York City is accused of "supporting voyeurism and the objectification of children,"⁵⁵ effectively accusing it of endorsing pedophiles and sexual abusers. This controversy matters because our society is currently in a state of unrest where people are more eager to call out political leaders, celebrities, and institutions of power for their wrongdoings or inappropriate behavior. In fact, TIME's 2017 Person of the Year featured various people – mostly women – known as the "Silence Breakers" that have called out their abusers, one of whom was activist Tarana Burke, the woman responsible for starting the #MeToo movement in 2006 that gained viral status in 2017.

⁵⁴ Jerry Saltz, "11,000 People Have Demanded the Met Remove This Panting. They Aren't Going To. Nor Should They," *Vulture*, Published December 15, 2017, Accessed June 25, 2018, <http://www.vulture.com/2017/12/11-000-demanded-the-met-remove-this-painting-they-wont.html>.

⁵⁵ Merrill, "Metropolitan Museum of Art."

The “current climate,” a term many – including Mia Merrill in her petition – have used to refer to this period of increased protest related to sexual assault or other major issues, is reminiscent of the Culture Wars of the 1990s, during which time Rudy Giuliani sought to remove Chris Ofili’s *The Holy Virgin Mary* and all funding from the Brooklyn Museum because he found the painting offensive and disturbing. While the Culture Wars of the 1990s involved the political right criticizing museums’ display of certain artworks and the current climate of protests involve mostly the political left doing so, one can infer that times of increased protest and backlash cause museums to become targets of attacks over artworks that the public finds to be related to sociopolitical issues. This position has been summed up well by Daniel Mach of NYU Law: “art has become a battleground on which American society fights its most intensely political and deeply personal wars.”⁵⁶

Museums have to reconsider what their roles are in today’s “current climate,” and this controversy will cause the Met to reflect on how the artwork it displays contributes to the larger cultural conversation of the #MeToo movement. The scandal over Balthus’ *Thérèse Dreaming* (1938) at the Met is a prime example of how works of art can either become part of the problem or the solution to sociopolitical issues, and proves that visual art, with all of its power to offend and stir up various emotions, is a significant catalyst for discussing matters such #MeToo and sexual abuse at large.

⁵⁶ Daniel Mach, "The Bold and the Beautiful: Art, Public Spaces, and the First Amendment," *New York University Law Review* Vol. 72, no. 2 (May 1997): 383.

III. CASE STUDY 2: DANA SCHUTZ’S *OPEN CASKET* CONTROVERSY AT THE 2017 WHITNEY BIENNIAL AND WHY IT MATTERS TO THE BLACK LIVES MATTER MOVEMENT

i. Description of Event

The Whitney Museum of American Art is the single most acclaimed and admired institution of modern and contemporary American art. Founded by Gertrude Vanderbilt in 1931, the core of the Whitney’s mission is to “collect, preserve, interpret, and exhibit American art of our time and serve a wide variety of audiences in celebration of the complexity and diversity of art and culture in the United States.”⁵⁷ Furthermore, the Whitney Biennial is regarded as the greatest showcase of contemporary American artists – typically those that are emerging – through the lens of a specific theme or context.

The 2017 Whitney Biennial was particularly notable as it caused a heated debate within the art world. The 2017 Biennial “arrive[d] at a time rife with racial tensions, economic inequities, and polarizing politics [in America],”⁵⁸ and artists were challenged by the Whitney to create works for the exhibition that reflected and wrestled with these realities. The ultimate purpose of the biennial, therefore, was to display visual art that deals with the heavy subject matter of racial, economic, and political tensions in America in order to foster difficult conversations between art institutions, artists, viewers, and the larger public. One could argue that the biennial was almost welcoming controversy, or at least some backlash, as the Whitney was purposefully displaying thought-provoking and potentially offensive subjects to spark debates about race representation in art, artists’

⁵⁷ Dana Miller and Adam D. Weinberg, *Whitney Museum of American Art: Handbook of the Collection* (New York: Yale University Press, 2015).

⁵⁸ “Whitney Biennial,” *The Whitney Museum of American Art*, Accessed September 28, 2018, <https://whitney.org/Exhibitions/2017Biennial>.

ownership of such subject matter, and art institutions' role in this larger sociopolitical discourse.

Displayed as one of the centerpieces of the 2017 Whitney Biennial was Dana Schutz's (1976–) oil on canvas painting, *Open Casket* (2016) (Figure 3). The abstract painting depicts the disfigured corpse of Emmett Till, a fourteen-year-old boy who was brutally beaten to death, lynched, and mutilated by a Mississippi lynch mob in 1955 after being falsely accused of flirting with a white woman named Carolyn Brandt.⁵⁹ Emmett's mother, Mamie Mobley-Till, made the brave decision to have an open casket funeral service so that the world could see the brutal murder of her son; a decision that is often referred to as the catalyst for or the “Big Bang” of the Civil Rights Movement in the United States. Significantly, American civil rights activist Reverend Jesse Jackson called Emmett Till's historic death the “first Black Lives Matter story,”⁶⁰ a reminder that Till's death is still acutely relevant to our contemporary conversations about racial inequality. While *Open Casket* (2016) represents difficult and upsetting subject matter, it is depicted in a somewhat abstracted way such that if one did not know the painting was of Emmett Till's mutilated corpse, one may not be able to determine the subject of the painting.

The major issue that arose from Schutz's *Open Casket* (2016) was that Schutz is a white artist depicting subject matter sensitive to black people. Given that Emmett Till's death was at the hands of white people and is one of the most defining moments in African-American history, many took issue with a white person appropriating that imagery. The art community and the general public began to question who *owns* certain

⁵⁹ Only in 2017 did Carolyn Brandt admit that she fabricated the story of Emmett Till flirting with her.

⁶⁰ Christopher Benson, “The Image of Emmett Till,” *The New York Times*, Published March 28, 2017, Accessed October 8, 2018, <https://www.nytimes.com/2017/03/28/opinion/the-image-of-emmett-till.html?action=click&module=RelatedCoverage&pgtype=Article®ion=Footer>.

subject matter, such as black suffering in this circumstance, and whether artists of different races are “allowed” to paint such subject matter.

ii. Hannah Black’s Petition

One of the most outspoken critics of *Open Casket* (2016) was Hannah Black, a black visual artist born in the United Kingdom, who completed the Whitney Independent Study program in 2014. After learning of *Open Casket* (2016)’s inclusion in the 2017 Whitney Biennial, Black immediately wrote an open letter to the biennial co-curators, Christopher Lew and Mia Locks, demanding that the painting be not only be removed from the show, but also physically destroyed. The letter addresses issues of racial inequality, free speech, and ownership of subject matter. Notable excerpts read:

I am writing to ask you to remove Dana Schutz’s painting “Open Casket” and...that the painting be destroyed and not entered into any market or museum. It’s not acceptable for a white person to transmute Black suffering into profit and fun... Although Schutz’s intention may be to present white shame, this shame is not correctly represented as a painting of a dead Black boy by a white artist... The subject matter is not Schutz’s... If Black people are telling her that the painting has caused unnecessary hurt, she and you must accept the truth of this... The painting must go.⁶¹

From the letter, it is clear that Black vehemently believes it is unacceptable for Schutz, a white artist, to appropriate and benefit from such a deeply upsetting moment in black history. Evidently, Black feels as if a white artist depicting the brutal death of a black person, even if the artist’s intentions are good, is just further deepening the racial divide as she considers the usurpation of black subject matter by white people to be yet another example of white supremacy. Black does, however, point out that even if had good

⁶¹ Alex Greenberger, “‘The Painting Must Go’: Hannah Black Pens Open Letter to the Whitney About Controversial Biennial Work,” *Artnews*, Published March 21, 2017, Accessed October 1, 2018, <http://www.artnews.com/2017/03/21/the-painting-must-go-hannah-black-pens-open-letter-to-the-whitney-about-controversial-biennial-work/>. (For full statement, see Appendix 3.)

intentions when painting *Open Casket* (2016), the painting should not be displayed solely because it is causing emotional harm to the black community. The most shocking aspect of her open letter is her demand to not only to remove the work from the biennial, but that the painting be destroyed so that Schutz can never profit from it in any way.

After Hannah Black posted her letter-turned-petition on Facebook,⁶² it was signed by over thirty people in one day. Notably, however, Black updated her petition by limiting the ability to sign it to black people alone, stating, “In response to some helpful criticism, I’m now only including Black co-signs. Non-Black people [are]...welcome to help get [the] painting destroyed.”⁶³ This was a questionable decision on Black’s part considering having more support regardless of race would be helpful to her cause, but also makes sense considering she sought to prove how strongly this painting’s display has impacted black people in particular.

iii. Parker Bright’s Protest

Parker Bright, a black artist and activist, signed Hannah Black’s petition as an “act of solidarity”⁶⁴ even though he does not support the destruction of art no matter what the circumstance. Bright quickly became a well-known figure during the 2017 Whitney Biennial as photos of his silent protest in the museum instantly went viral. During the biennial’s opening weekend, Bright gathered a group of five or six people to stand in front of *Open Casket* (2016), thus blocking visitors from viewing the painting, until the

⁶² Black’s letter has since been deleted from Facebook.

⁶³ Lorena Muñoz-Alonso, “Dana Schutz’s Painting of Emmett Till at Whitney Biennial Sparks Protest,” *Artnet News*, Published March 21, 2017, Accessed October 15, 2018, <https://news.artnet.com/art-world/dana-schutz-painting-emmett-till-whitney-biennial-protest-897929>.

⁶⁴ Antwaun Sargent, “Unpacking the Firestorm around the Whitney Biennial’s ‘Black Death Spectacle,’” *Artsy*, Published March 22, 2017, Accessed October 2, 2018, <https://www.artsy.net/article/artsy-editorial-unpacking-firestorm-whitney-biennials-black-death-spectacle>.

museum closed each day. Bright wore a t-shirt that read “BLACK DEATH SPECTACLE” in sharpie (Figure 4), boldly stating that he believes Schutz made a spectacle of African-American suffering when it is not her place to do so. Bright wrote a letter after his protest, stating:

There is a divide between what the public perceives and what the curation intends... Dana Schutz’s *Open Casket* depicting Emmett Till’s already mutilated face finds itself within a negative space, one that may start a conversation but it does not do justice, nor shines a new light on an issue that still pervades (THE ONE OF BLACK AMERICANS BEING KILLED BY THE HANDS OF WHITE SUPREMACY).⁶⁵

Bright emphasizes that regardless of the curators intentions in displaying this work,⁶⁶ the painting still caused significant emotional harm to African Americans and for that reason alone it should be taken down. Furthermore, he states that while his silent protest started conversations about racial inequality, the overall issue of white supremacy is, unfortunately, still as prevalent as ever in American society.

Bright met face-to-face with co-curators Christopher Lew and Mia Locks to discuss his feelings about the display of the work. Bright even referred to this meeting as “one of the best conversations [he’s] ever had,” stating that although they did not agree to take the painting out of the biennial, he appreciated that the Whitney was willing to discuss this issue because he believes that “if anything is going to change, it has to come

⁶⁵ Sargent, “Unpacking the Firestorm.” (For full statement, see Appendix 4.)

⁶⁶ However, in a video recording that Bright took of himself protesting and speaking to visitors about the curators’ intentions, he stated, “to me, it seems like a scheme for the Whitney to create controversy.” (source: Parker Bright, Facebook post, March 17, 2017, 1:54 p.m., https://www.facebook.com/parker.bright.9/videos/vb.1070704030/10209898925964379/?type=2&video_source=user_video_tab).

from the white art community.”⁶⁷ Due to the controversy surrounding the display of Dana Schutz’s *Open Casket* (2017) at the 2017 Whitney Biennial, Bright says that he will not work with the Whitney in the future and “encourages other artists of color to consider their affiliations carefully.”⁶⁹

iv. Dana Schutz’s Response

Dana Schutz, unlike Balthus in the case of the Met controversy, had the opportunity as a living artist to respond to Hannah Black, Parker Bright, and the general public’s backlash. Since Black’s major criticism was that Schutz was profiting from black suffering, Dana Schutz has strongly reaffirmed that *Open Casket* (2016) was never for sale and will never be for sale, thus proving she never intended to profit from the painting’s creation or display in the biennial. Schutz participated in many interviews to respond to the scandal where she shared both her doubts about and intentions behind making this controversial work. Below are noteworthy sections from Schutz’s interviews:

There were many reasons why I could not, should not, make this painting. The photograph is an icon of the Civil Rights Movement and a sacred image. I am also a white woman.⁷⁰

I made this painting in August of 2016 after a summer that felt like a state of emergency—there were constant mass shootings, racist rallies filled with hate speech, and an escalating number of camera-phone videos of innocent black men being shot by police. The photograph of Emmett Till felt analogous to the time... The painting is very different from the photograph... I always had issues with making this painting.

⁶⁷ Anya Jaremko-Greenwold, “Protestors Block, Demand Removal of a Painting of Emmett Till at the Whitney Biennial,” *Hyperallergic*, Published March 22, 2017, Accessed October 8, 2018, <https://hyperallergic.com/367012/protesters-block-demand-removal-of-a-painting-of-emmett-till-at-the-whitney-biennial/>.

⁶⁸ Even though both Lew and Locks are not Caucasian but are of Asian descent, perhaps Bright was referring to the fact that the Whitney Museum in general represents the white art community, and Lew and Locks are extensions of that as co-curators.

⁶⁹ Jaremko-Greenwold, “Protestors Block.”

⁷⁰ Jaremko-Greenwold, “Protestors Block.” (For full statement, see Appendix 5.)

The anger surrounding this painting is real and I understand that... I do think that it is better to try to engage something extremely uncomfortable, maybe impossible, and fail, than to not respond at all.⁷¹

It is evident that Schutz had a deep internal struggle about creating *Open Casket* (2016). She was aware that not only does Emmet Till's death serve as painful reminder of black suffering during the Civil Rights Movement, but it also highly relevant to events happening in today's society such as shootings, heightened racism, and police brutality against black people, giving the painting even more weight. Schutz defends herself in subtle ways, however, arguing that she intentionally made the painting in a non-realistic style because rendering Till's face in a manner similar to the photograph would have been disrespectful and morally wrong. She also acknowledges that the backlash surrounding this painting, especially coming from the African American community, is completely warranted and understandable, but that she believes that it is important for artists to engage with difficult subject matter.

Most significantly, Schutz defends her right to make this painting because she is a mother, stating, "I would not have made this painting when I was younger, before I had a son. I only thought about the possibility of painting it after listening to interviews with Till's mother. In her sorrow and rage she wanted her son's death not just to be her pain but America's pain."⁷² Schutz makes it clear that one of the major reasons she painted *Open Casket* (2016) was out of empathy for Mamie Mobley-Till because she "know[s]

⁷¹ Brian Boucher, "Dana Schutz Responds to the Uproar over Her Emmett Till Painting at the Whitney Biennial," *Artnet News*, Published March 23, 2017, Accessed October 2, 2018, <https://news.artnet.com/art-world/dana-schutz-responds-to-the-uproar-over-her-emmett-till-painting-900674>. (For full statement, see Appendix 5.)

⁷² Jaremko-Greenwold, "Protestors Block."

what it is to love your child” and “do[esn’t] know if there would be a way to address the subject without some way of approaching it on a personal level.”⁷³⁷⁴

v. The Whitney’s Response

Like Dana Schutz, co-curators Christopher Lew and Mia Locks prepared a written statement and participated in various interviews to respond to the scandal surrounding *Open Casket* (2016), defend its inclusion in the 2017 biennial, and affirm the museum’s stance on the First Amendment, controversial art, and the role of an art institution during times of sociopolitical tensions. In a written statement jointly crafted by Lew and Locks in direct response to Hannah Black’s open letter, the co-curators write:

The 2017 Whitney Biennial brings to light many facets of the human experience... such as violence, racism, and death...in an especially divisive time. *Open Casket* (2016) is an unsettling image that speaks to the long-standing violence that has been inflicted upon African Americans...By exhibiting the painting we wanted to acknowledge the importance of this extremely consequential and solemn image in American and African American history and the history of race relations in this country... We believe in providing a museum platform for artists to explore these critical issues.⁷⁵

In this response, the curators justify their choice to display *Open Casket* (2016) in the biennial by underscoring the subject matter as not just representing black history, but American history as a whole. They acknowledge how deeply upsetting the subject matter

⁷³ Boucher, “Dana Schutz Responds.”

⁷⁴ After the petition to remove *Open Casket* (2016) went public, so did a fake letter supposedly written by Dana Schutz declaring that she wanted to remove the work. On March 23, many art news publications received an email where someone posing as Schutz acquiesced to protesters’ demands of removing the work from the biennial, stating: “I understand that many have attempted to defend my work in the interest of free speech, and with calls against censorship... However, the artists and writers generously critiquing ‘Open Casket’ have made plain to me that I have benefited from the very systems of racism I aimed to critique, in a way that blinded me to what my re-presenting this image would mean to Black audiences.” The letter went on to vow to “redirect all funds from the sales of my other paintings included in the Biennial towards the Black liberation movement.”

(source: Sarah Cascone, “Viral Dana Schutz ‘Open Letter’ Exposed as a Hoax,” *Artnet News*, Published March 23, 2017, Accessed October 15, 2018, <https://news.artnet.com/art-world/dana-schutz-asks-whitney-remove-controversial-emmett-till-painting-901001>.)

⁷⁵ Muñoz-Alonso, “Dana Schutz’s Painting.” (For full statement, see Appendix 6.)

is, but assert that it is their job as a museum to give artists the opportunity to display uncomfortable visual imagery in hopes of bringing people together to discuss issues of racial inequality in our country.

In a verbal interview that Christopher Lew took part in with *Artnet*, he makes it clear that the Whitney appreciates all forms of public engagement, even backlash and protest, stating that the controversy was actually a “positive” and “powerful” thing because it attracted more visitors to the biennial who used the painting as a vehicle for discourse. While Lew welcomes criticism, he did, however, strongly oppose Hannah Black’s request to destroy *Open Casket* (2016), stating that “as a museum with a collection, with the role of being custodians for art, we can never condone the destruction of a work. It’s such an extreme demand that it brings things to the point where one can’t have a real conversation.”⁷⁶

Contrastingly, the Whitney found Parker Bright’s protest to be reasonable and beneficial. Lew appreciated that Bright was protesting “in a very responsible and respectful way, engaging with visitors and having discussions around the painting,” which is ultimately what a museum hopes for when displaying controversial art. In fact, after the curators had their face-to-face meeting with Bright wherein he called for more context for the painting, they decided to update the wall text for *Open Casket* (2016) to directly address the controversy and reflect Bright’s concerns about its display. The additional sections of the wall text include a statement from Dana Schutz’s (quoted above) as well as a statement from the museum, which reads:

⁷⁶ Andrew Goldstein, “Why Dana Schutz’s Emmett Till Painting Must Stay: A Q&A With the Whitney Biennial’s Christopher Lew,” *Artnet News*, Published March 30, 2017, Accessed October 1, 2018, <https://news.artnet.com/art-world/whitney-biennial-christopher-lew-dana-schutz-906557>.

Since the opening of the Biennial, this painting has been at the center of heated debate around questions of cultural appropriation, the ethics of representation, the political efficacy of the painting, and the possibilities or limitations of empathy. This painting's inclusion in the Biennial reflects on the ongoing fact of racialized violence in the United States, and stems from the curators' belief that the Whitney, as a museum of American art, must engage with this enduring history, and that art is critical to this conversation.⁷⁷

Furthermore, the Whitney created public programming to foster discussions about the 2017 biennial with a program specifically addressing the controversy over Dana Schutz's *Open Casket* (2016) titled "Perspectives on Race and Representation: An Evening with the Racial Imaginary Institution." This event, which was free and open to the public, served as a platform to "share perspectives on these issues in relation to the exhibition and our contemporary moment."⁷⁸

vi. Public Reactions to the Petition, Protest, and the Whitney's Decisions

Just as *Open Casket* (2016) sparked protests and discussions in front of the work at the biennial, the same heated debates were occurring in the news and online. Numerous art writers, critics, curators and artists alike took to the Internet to work through their feelings about the controversy and decide whether they support painting's removal – or even destruction – or whether they support the Whitney's choice to display *Open Casket* (2016) in the biennial.

Perhaps the harshest response to *Open Casket* (2016) that is most aligned with Hannah Black's opinion came from African-American artist Pastiche Lumumba. Like Black, Lumumba criticized Schutz in a Facebook post for painting this subject matter as a

⁷⁷ Wall text for Dana Schutz's *Open Casket* (2016), The Whitney Museum of American Art, New York.

⁷⁸ The Whitney Museum of American Art, "Public Programs of the 2017 Whitney Biennial Announced," Press Release, Published March 29, 2017, Accessed October 2, 2018, https://whitney.org/uploads/generic_file/file/493/biennial_public_programs_alert_final.pdf.

white person who will never personally understand anti-black violence, and even suggested that Schutz give money to black artists to remove *Open Casket* (2016) and decide whether or not it should be destroyed. He also criticizes the Whitney for perpetuating “structural anti-blackness” and urges them to “hold a press conference, apologize, and explain what they’ve learned from black people... i.e., use their privilege to amplify the voices of the underprivileged.”⁷⁹ Additionally, Lumumba conducted his own form of protest by hanging a banner from the High Line balcony overlooking the Whitney Museum that read: “The White woman whose lies got Emmett Till lynched is still alive in 2017. Feel old yet?” to attract negative attention to the painting.

Aria Dean, an artist and art writer, wrote an essay opposing Schutz’s painting and denouncing the Whitney curators’ responses to the controversy, calling them “disingenuous” and “hollow.” Dean finds it questionable that the curators would offer a white painter the opportunity to spark a conversation about racial tensions given our already “divisive” environment, and that while the curators claim that the biennial was meant to help create discourse over tensions in America, they conveniently say “little to nothing about the violence, racism, and death that [they] claim to be so interested in when it manifests outside of the institutions walls.”⁸⁰ Furthermore, Dean criticizes Schutz’s assertion that she painted *Open Casket* (2016) because she felt empathetic as a mother by pointing out that black motherhood in America is different than white motherhood: “For the black mother, the possibility of violence and death for her black child is a reality... To

⁷⁹ Pastiche Lumumba, Facebook post, March 22, 2017, 2:05 p.m., <https://www.facebook.com/photo.php?fbid=10154523889816089&set=a.112413731088&type=3&theater>.

⁸⁰ Aria Dean, “Essay: The Demand Remains,” *The New Inquiry*, Published March 28, 2017, Accessed October 7, 2018, <https://thenewinquiry.com/the-demand-remains/>.

equate white motherhood, black motherhood, and the fear that runs through each of them is violent and nothing else.”⁸¹

There were, however, notable figures in the art world who came to Schutz’s and the Whitney’s defense over the controversy. Roberta Smith, the leading art critic at *The New York Times*, wrote that while viewers who find the work offensive should be allowed to protest, it is “abhorrent” to suggest censorship or the destruction of art. Smith compares this situation to scandals in the 1990s, arguing that the protestors are not all that different from the Roman Catholics who, led by Rudy Giuliani, protested Chris Ofili’s *The Holy Virgin Mary*’s display in the Brooklyn Museum’s *Sensation* exhibition in 1999. Smith feels as if the discussion that resulted from *Open Casket* (2016)’s display, while sometimes heated and harsh, was “ultimately beneficial.”⁸² Similarly, Zach Feuer, former art dealer who represented Dana Schutz, thinks the debate over painting has been “educational,” but goes even further than Roberta Smith to say that he worries about the “narrowmindedness of some of his colleagues in the art field.”⁸³

vii. Analysis of the Whitney’s Decision and Response

The Whitney’s response to and handling of the Dana Schutz scandal was appropriate on all fronts. By deciding not to pull *Open Casket* (2016) from the 2017 biennial, the Whitney justifiably kept the work on view given the museum’s mission statement of celebrating “the complexity and diversity of art and culture in the United

⁸¹ Dean, “Essay: The Demand Remains.”

⁸² Roberta Smith, “Should Art That Infuriates Be Removed?,” *The New York Times*, Published March 27, 2017, Accessed October 1, 2018, <https://www.nytimes.com/2017/03/27/arts/design/emmett-till-whitney-biennial-schutz.html>.

⁸³ Brian Boucher, “Social Media Erupts as the Art World Splits in Two Over Dana Schutz Controversy,” *Artnet News*, Published March 24, 2017, Accessed October 2, 2018, <https://news.artnet.com/art-world/art-world-split-dana-schutz-controversy-902423>.

States” and the 2017 biennial’s goal of displaying artwork that is relevant to sociopolitical issues such as racial tensions in America. While the Whitney curators did not refer directly to art being protected by the First Amendment as the Met did, the Whitney defended their ability to display artworks, no matter how potentially offensive, and denounced the idea of destroying artwork no matter what the circumstance. Despite the Whitney’s strong stance against the destruction of art, the curators made the smart decision to compassionately acknowledge that *Open Casket* (2016) can be a painful image to the black community and expressed that understanding in their written and verbal responses. The Whitney also cleverly communicated its embrace of public engagement, even if that engagement involves protest, because it helps bring more people into the museum to see art and foster important discussions.

Furthermore, the Whitney appropriately updated the wall text of *Open Casket* (2016) to reflect the criticisms of the work by the African American community, the curators intentions for displaying the work, and Dana Schutz’s response to the protest. Updating the wall text to reflect the public’s concerns was a suitable change given the biennial’s heavy subject matter and temporary nature. Since the Whitney Biennial is a temporary exhibition, altering the wall text for *Open Casket* (2016) is not as impactful compared to altering the wall text for a work on permanent display like *Thérèse Dreaming* (1938) at the Met. In the Met’s case, changing the wall text for *Thérèse Dreaming* (1938) would have had significant implications on the wall texts of all other works in the Met’s permanent collection, whereas changing the wall text for *Open Casket* (2016) would not affect other works in the Whitney’s permanent collection.

Lastly, the Whitney's decision to create public programming directly related to the *Open Casket* (2016) backlash was a positive way to handle the controversy because the museum stayed true to their mission of not just displaying art that sparks discourse, but actually providing a tangible platform for that discourse that anyone, regardless of race or economic means, could take part in.

viii. Why This Controversy Matters to the Black Lives Matter Movement

The scandal over Dana Schutz's *Open Casket* (2016) at the Whitney Museum is highly relevant to the recent Black Lives Matter movement and overall heightened racial tensions in America. Black Lives Matter began in 2013 as a response to Trayvon Martin's unjust death and the acquittal of his killer, policeman George Zimmerman. Black Lives Matter defines itself as a "global network...whose mission is to build local power and to intervene in violence inflicted on Black communities by the state and vigilantes...working for a world where Black lives are no longer systematically targeted for demise."⁸⁴ This mission is relevant now more than ever given the continued deaths of innocent black men and increased racial tensions since Donald Trump was elected President of the United States in 2016.

The *Open Casket* (2016) controversy at the Whitney is impactful because our society is currently in a time filled with racist rhetoric, police brutality against black people, and instances of systematic racism. As a result, people are calling out political leaders and institutions of power for their racist remarks and actions. Evidently, this has extended to museums, as one can see in the numerous protests against the Whitney's

⁸⁴ "Black Lives Matter – About," *Black Lives Matter*, Accessed October 30, 2018, <https://blacklivesmatter.com/about/>.

display of *Open Casket* (2016), forcing the museum to question and define its role in the larger dialogue about racism in America. Although Dana Schutz stated that she created the painting as a response to the hate speech and police violence against African Americans, it is clear that the black community did not fully believe her, further representing its general distrust of white people in positions of power. It is significant that the most important American art museum in the country was accused of celebrating “black Americans being killed by the hands of white supremacy” during the age of #BlackLivesMatter, especially considering the protestors criticisms of *Open Casket* (2016) are aligned with the specific goals of the Black Lives Matter movement’s mission. In fact, as Dr. Jennifer Samet, an art historian and curator, writes, *Open Casket* (2016) is “a posthumous icon of the Civil Rights movement, his image – and this painting – now reads as totally pertinent in the context of Black Lives Matter.”⁸⁵

The Whitney, despite not removing the painting from view, ultimately stepped up to acknowledge the black community’s pain and foster conversations about these upsetting and deep-rooted issues that plague today’s society. The controversy over Dana Schutz’s *Open Casket* (2016) at the Whitney represents the power of visual art to evoke strong emotional responses and its ability to either help strengthen or close the racial divide in America. Whether one supports or opposes the display of *Open Casket* (2016) in the 2017 Whitney Biennial, it is clear that the painting served as a powerful source for discussion about current racial tensions in American society.

⁸⁵ Jennifer Samet, “Painting on Message at the 2017 Whitney Biennial,” *Hyperallergic*, Published March 18, 2017, Accessed October 1, 2018, <https://hyperallergic.com/366084/painting-on-message-at-the-2017-whitney-biennial/>.

IV. CASE STUDY 3: CONTROVERSY OVER THREE WORKS IN THE GUGGENHEIM'S *ART AND CHINA AFTER 1989: THEATER OF THE WORLD* EXHIBITION AND WHY IT MATTERS TO ACTIVISM IN THE DIGITAL AGE

i. Description of Event

Founded in 1937 by Solomon R. Guggenheim, The Solomon R. Guggenheim Foundation funds four museums under its name that are located in different international art-hub cities. With institutions in New York, Venice, Bilbao, and Abu Dhabi, the Guggenheim Foundation has the most acclaimed constellation of fine art museums across the globe. First opened as the Museum of Non-Objective Painting in 1939, the Solomon R. Guggenheim Museum in New York defines its mission statement as “collect[ing], preserv[ing] and interpret[ing] modern and contemporary art, and explor[ing] ideas across cultures through dynamic curatorial and educational initiatives and collaborations.” The museum also asserts itself as being an “ever-evolving institution” that is “committed to innovation.”⁸⁶

The Guggenheim Museum in New York recently presented a powerful exhibition entitled *Art and China after 1989: Theater of the World*, which ran from October 6, 2017 through January 7, 2018 and traveled to the Guggenheim Museum Bilbao and the San Francisco Museum of Modern Art after its debut. The exhibition surveyed Chinese art from the years 1989 to 2008, representing the year of the Tiananmen Square Massacre through the year of the Beijing Olympics. Prior to the exhibition opening, a major controversy erupted over the inclusion of three specific works that were targets of protest and public backlash due to their use of live animals that many considered abusive and

⁸⁶ “About Us,” *The Solomon R Guggenheim Museum*, Accessed October 30, 2018, <https://www.guggenheim.org/about-us>.

unethical. One of the three works was Huang Yong Ping's (1954–) two-part installation after which the exhibition was named, *Theater of the World* (1993), and *The Bridge* (1995)⁸⁷ (Figure 5). The installation featured hundreds of live crickets, lizards, snakes, and a multitude of other insects and reptiles under a hot lamp, fighting for survival in true “Darwinian combat.”⁸⁸ The second work under fire was Xu Bing's (1955–) *A Case Study of Transference* (1994) (Figure 6), a video work documenting two pigs mating in front of a live audience with made-up symbols resembling Chinese characters scrawled all over their bodies. The third work was Sun Yuan (1972–) and Peng Yu's (1974–) *Dogs That Cannot Touch Each Other* (2003) (Figure 7), a seven-minute video documenting eight American pit bulls facing each other on treadmills, running ceaselessly at each other in exhaustion while foaming at the mouth.

The Guggenheim claims that these works, and all of the other hundreds of works in the *Art and China after 1989: Theater of the World* exhibition were meant to serve as “an apt spectacle of globalization's symbiosis and raw contest.”⁸⁹ In justifying the initial inclusion of *Theater of the World* (1993) in the exhibition, the Guggenheim stated that “in its strange way, the piece...perfectly captures the theme of the exhibition: China as a universe unto itself, forever evolving and changing into a new order. It also sums up a

⁸⁷ The Guggenheim acquired *Theater of the World* (1993) and *The Bridge* (1995) from the Ullens Collection, the largest collection of Chinese art in private hands. (source: Andrew Goldstein, “The Guggenheim's Alexandra Munroe on Why ‘The Theater of the World’ Was Intended to Be Brutal,” *Artnet News*, Published September 26, 2017, Accessed December 1, 2018, <https://news.artnet.com/exhibitions/alexandra-munroe-theater-of-the-world-interview-pt-1-1095470>.)

⁸⁸ Holland Cotter, “From Innovation to Provocation, China's Artists on a Global Path,” *The New York Times*, Published October 6, 2017, Accessed October 30, 2018, <https://www.nytimes.com/2017/10/06/arts/design/guggenheim-museum-art-and-china-review.html?module=inline>.

⁸⁹ The Solomon R. Guggenheim Museum, “Guggenheim Presents *Art and China after 1989: Theater of the World* Opening October 6, 2017,” Press Release, Published October 5, 2017, Accessed October 30, 2018, <https://www.guggenheim.org/press-release/guggenheim-presents-art-and-china-after-1989-theater-of-the-world-opening-october-6-2017>.

sense of oppression the artists felt from 1989-2008.”⁹⁰ Artist Huang Yong Ping added that the cage embodies “the chaos and cruelty” of governance.⁹¹ Xu Bing, artist of *A Case Study of Transference* (1994), also made a case for why his video work should be included in the Guggenheim’s exhibition by relating his work to the theme of Chinese language, stating, “Animals are completely uncivilized and Chinese characters are the expression of supreme civilization.”⁹² Significantly, regarding *Dogs That Cannot Touch Each Other* (2003), the Guggenheim emphasized that the work “seeks to examine and critique systems of power and control” in China and makes a statement about “the social conditions of globalization and the complex nature of the world we share.”⁹³

The public, and animal rights groups in particular, took issue with these works and asserted that they violate animal rights and constitute actual abuse, arguing that the Guggenheim was promoting such abuse by displaying the works in the exhibition. Huang Yong Ping’s *Theater of the World* (1993), Xu Bing’s *A Case Study of Transference* (1994), and Sun Yuan and Peng Yu’s *Dogs That Cannot Touch Each Other* (2003) each challenge a viewer’s moral compass as it stirs up a tension between ethics and the legal rights of artwork – no matter how potentially offensive – to be displayed as a form of free speech and expression.

⁹⁰ Jane Perlez, “Where the Wild Things Are: China’s Art Dreamers at the Guggenheim,” *The New York Times*, Published September 20, 2017, Accessed October 31, 2018, <https://www.nytimes.com/2017/09/20/arts/design/guggenheim-art-and-china-after-1989.html>.

⁹¹ Mary Wang, “Guggenheim’s Much-Contested China Exhibition Holds Up An Unexpected Mirror to America Instead,” *Vogue*, Published October 7, 2017, Accessed October 31, 2018, <https://www.vogue.com/article/guggenheim-art-and-china-exhibition-review>.

⁹² Perlez, “Where the Wild Things Are.”

⁹³ Sarah Cascone, “The Guggenheim’s Massive China Show Is Already Attracting Criticism From Animal Rights Groups,” *Artnet News*, Published September 22, 2017, Accessed October 31, 2018, <https://news.artnet.com/exhibitions/animal-rights-protest-work-guggenheim-china-show-1092644>.

ii. Animal Rights Groups' Protests

Perhaps the most well-known animal rights organization that protested the works' inclusion in the Guggenheim's exhibition before the show had opened was People for the Ethical Treatment of Animals (PETA). Ingrid Newkirk, President of PETA, wrote a letter directly to Guggenheim Director Richard Armstrong demanding that the works be removed from the show, in which she stated, "the animals in these exhibits are not willing participants, and no one should force sentient beings into stressful situations for 'art'," and boldly claimed that "people who find entertainment watching animals try to fight each other are sick individuals whose twisted whims the Guggenheim should refuse to cater to." Notably, Newkirk said that while she vehemently opposes the display of artwork that promotes animal cruelty, she also has "no wish to stifle creativity in talent in art,"⁹⁴ lending a conciliatory nature to her otherwise unapologetic letter.

Peng Yu and Sun Yuan's *Dogs That Cannot Touch Each Other* (2003) was certainly under the most fire from animal rights activists and organizations. Similarly to PETA, the American Society for the Prevention of Cruelty to Animals (ASPCA), issued a press release stating that "the ASPCA fully supports artistic expression, but strongly opposes any use of animals in art or entertainment if it results in pain or distress to the animals, which is clearly the case in [*Dogs That Cannot Touch Each Other* (2003)]." Referencing the current rise in protest and activism, the ASPCA also noted that "at a time when society's animal welfare values are evolving and moving forward in many ways –

⁹⁴ People for the Ethical Treatment of Animals, "Guggenheim's Dogfighting Display is 'Sick': PETA Says Pull the Plug," Press Release, Published September 25, 2017, Accessed October 30, 2018, <https://www.peta.org/media/news-releases/guggenheims-dogfighting-display-sick-peta-says-pull-plug/>.

in both communities and in our laws – engaging in animal cruelty and putting it on public display like this moves us backward, regardless of artistic intent.”⁹⁵

Unlike PETA and the ASPCA who showed their support of the arts and the importance of freedom of expression, the American Kennel Club solely focused on expressing their deep concern about *Dogs That Cannot Touch Each Other* (2003)’s involvement of animal abuse without lending any sympathy to the museum. In a letter to *Artnet News*, the club stated that “dog fighting is unacceptable and should not be displayed in any manner and certainly not as art.” Furthermore, the American Kennel Club strongly implored the Guggenheim to reconsider the inclusion of *Dogs That Cannot Touch Each Other* (2003) in the exhibition because “using live dogs in depictions of animal cruelty is not art [and] dogs are our sacred companions.”⁹⁶

iii. Stephanie Lewis’ Petition

Stephanie Lewis, a self-proclaimed animal lover and vegan, decided to take action against the Guggenheim’s display of the three works involving animals, despite not being professionally involved with any animal rights activist groups. This took the form of creating a petition directed at the Guggenheim and eleven members of its high-ranking staff titled “Promote Cruelty-Free Exhibits at the Guggenheim.” The online petition, now closed, quickly gained over 832,000 supporters; about seventy times more than Mia Merrill’s petition addressed to the Metropolitan Museum of Art. Lewis states that she

⁹⁵ American Society for the Prevention of Cruelty to Animals, “ASPCA Objects to Animal Cruelty in Guggenheim Museum Exhibit ‘Art and China after 1989: Theater of the World,’” Press Release, Published September 25, 2017, Accessed October 30, 2018, <https://www.asPCA.org/about-us/press-releases/asPCA-objects-animal-cruelty-guggenheim-museum-exhibit-art-and-china-after>.

⁹⁶ Sarah Cascone, “The Guggenheim’s Massive China Show Is Already Attracting Criticism From Animal Rights Groups,” *Artnet News*, Published September 22, 2017, Accessed October 31, 2018, <https://news.artnet.com/exhibitions/animal-rights-protest-work-guggenheim-china-show-1092644>.

understands the Guggenheim's desire to promote art that pushes boundaries, but she does not think animal cruelty or abuse should have any part in that, writing that "animal cruelty holds no place in art in the United States, nor should it anywhere in the world... This assault on animals in the name of art will not be tolerated or supported." Lewis also urges the Guggenheim to "tell the world what [they] stand for: bold, controversial art that breaks barriers and challenges social norms, which does NOT include the promotion of cruelty against innocent beings."⁹⁷ In an update posted to the petition website, Lewis announced the creation of an event called "Biting Back – Art for a Good Paws," a charity art show that would raise awareness and funds for animal rights in direct response to the Guggenheim's statement. Lastly, Lewis asked petition supporters and organizations such as PETA, the ASPCA, and the American Kennel Club to use the attention-grabbing hashtags #tortureisnotart and #guggenheimtortureisnotart in order to help their message go viral online.

Ricky Gervais, British actor and comedian who is known for his advocacy of animal welfare, shared the link to Lewis' petition to his thirteen million Twitter followers, adding, "If this is art, let's tether Peng Yu and Sun Fucking Yuan too... You should know better than this @Guggenheim."⁹⁸ His outrage, evident through his explicit language and bold suggestion to put the artists under the same physical conditions as the pit bulls, helped Lewis share her petition to an even wider audience.

⁹⁷ Stephanie Lewis, "Promote Cruelty-Free Exhibits at the Guggenheim," *Change.org*, Accessed October 20, 2018, <https://www.change.org/p/promote-cruelty-free-exhibits-at-the-guggenheim>.

⁹⁸ Ricky Gervais, Twitter post, September 24, 2017, 9:38 a.m., <https://twitter.com/rickygervais/status/911947995209437185?lang=en>.

iv. The Guggenheim's Response

The Guggenheim, after receiving death threats from certain protestors, responded to the controversy by dramatically altering the display of the three works in the *Art and China after 1989: Theater of the World* exhibition before it opened. The Guggenheim kept Huang Yong Ping's *Theater of the World* (1993) in the exhibition but removed all live animals from the installation (Figure 8), as well as kept the television sets for Xu Bing's *A Case Study of Transference* (1994) and Sun Yuan and Peng Yu's *Dogs That Cannot Touch Each Other* (2003) on display but kept them on a freeze frame so that the videos would not play. Furthermore, the Guggenheim wrote additional wall texts to accompany these works to provide context for why the works were not in their original format.⁹⁹

While the museum's decision appears to be morally responsible, the museum's explanation for their removal and alterations of the works is quite surprising. The Guggenheim justifies their decision in an official press release, stating:

Out of concern for the safety of its staff, visitors, and participating artists, the Solomon R. Guggenheim Museum has decided against showing the art works...the Guggenheim regrets that explicit and repeated threats of violence have made our decision necessary. As an arts institution committed to presenting a multiplicity of voices, we are dismayed that we must withhold works of art. Freedom of expression has always been and will remain a paramount value of the Guggenheim.¹⁰⁰

It is evident that the Guggenheim only chose to remove the works due to safety concerns, although no one from the museum would provide specific details about the alleged

⁹⁹ The exact wall texts were not yet available for research purposes as of December 2018.

¹⁰⁰ The Solomon R. Guggenheim Museum, "Statement Regarding Works in 'Art and China after 1989: Theater of the World,'" Press Release, Published September 25, 2017, Accessed October 20, 2018, <https://www.guggenheim.org/press-release/works-in-art-and-china-after-1989-theater-of-the-world>. (For full statement, see Appendix 7.)

threats. However, museum spokeswoman Sarah Eaton did say that “the tone in both the petition comments and the social media postings, calls and emails was markedly different from what we’ve seen before and required us to take the threats very seriously.”¹⁰¹ It is worth noting that the Guggenheim refers both to an aspect of the museum’s mission as well as its commitment to freedom of expression in its official statement, emphasizing the museum’s regret for removing works that merit First Amendment protection.

v. Director Richard Armstrong’s Response

Richard Armstrong, Director of the Guggenheim Museum in New York, participated in a noteworthy discussion with Charlotte Burns in an episode of Art Agency, Partners’ podcast series where he delved into the topics of censorship, deaccessioning, and the controversy over the three works in the Guggenheim’s *Art and China after 1989: Theater of the World* exhibition. When asked about pulling the three works from the exhibition, Armstrong emphasized the difference between “pulling” and “altering” the works stating that the works were still physically present in the exhibition, but altered so that *Theater of the World* (1993) did not feature live animals and the videos in *A Case Study of Transference* (1994) and *Dogs That Cannot Touch Each Other* (2003) did not play. Armstrong made it clear that the museum, although changing the works from their original state, “memorialized what [the artist’s] intention was” by not removing the works from the exhibition entirely.¹⁰²

¹⁰¹ Robin Pogrebin and Sopan Deb, “Guggenheim Museum Is Criticized for Pulling Animal Artworks,” *The New York Times*, Published September 26, 2017, Accessed November 2, 2018, <https://www.nytimes.com/2017/09/26/arts/design/guggenheim-art-and-china-after-1989-animal-welfare.html>.

¹⁰² Charlotte Burns, “Guggenheim Director Richard Armstrong,” October 11, 2018, In *In Other Words*, produced by Art Agency, Partners, Podcast, MP3 Audio, 33:46, <http://www.artagencypartners.com/podcast/richard-armstrong/>.

Armstrong affirmed that the threats of violence against Guggenheim staff, artists, and visitors were the chief reasons for altering the works' display, adding that the New York City Police Department offered to provide armed guards during the exhibition's duration. However, he and the rest of the museum staff were highly opposed to this idea, stating that "the museum is meant to be a kind of sanctuary" and that he's "not interested in walking around a militarized zone."¹⁰³

Perhaps unsurprisingly, Armstrong blames the Internet for blowing this controversy out of proportion. While the Guggenheim may have expected a petition to be circulated and shared online, Armstrong told Burns that the museum was not expecting the level of "digital swarming" and "hysteria" from the public, nothing that anyone, even "ideologues,"¹⁰⁴ can participate in the conversation about this controversy on the Internet, thus adding fuel to the fire. When asked about the Guggenheim's plans to avoid public backlash about their exhibitions, Armstrong stated that he hopes to meet with other museum leaders in New York City to discuss how to deal with and prepare for future controversies.

vi. Public Reactions to the Petition, Protest, and the Guggenheim's Decision

As Armstrong noted, there was a slew of people who took to the Internet to express their strong opinions about the controversy over the three works in the Guggenheim's *Art and China after 1989: Theater of the World* exhibition and whether or not the museum acted correctly by "pulling" the works or "altering" their display. The

¹⁰³ Burns, "Guggenheim Director."

¹⁰⁴ Burns, "Guggenheim Director."

debate was essentially split into two sides based on which issue one supports more: animal rights or the First Amendment.

PETA President Ingrid Newkirk, while vehemently opposing the inclusion of the three controversial works, applauded the Guggenheim for choosing not to display them in their original states, arguing that “withdrawing these pieces may help [China] and its artists recognize that animals are not props and that they deserve respect.”¹⁰⁵ Sarah Cohen, an art historian whose research specializes in the artistic representation of animals, agreed with Newkirk, but rather than applauding the museum for removing the works, Cohen criticized the curators for displaying them in the first place. Cohen believes that the curators’ justification for the artists using live animals in their artwork to make a commentary on Chinese society, which she refers to as “the exploitation of animals to make artistic points” is actually just “bad art” and should never have been tolerated by the Guggenheim. Similarly, Stephen F. Eisenman, an art history professor who researches the ethics of using animals in art, stated that the works never should have been on display because they “support cruelty and give sanction to animal abuse,” further adding that the Guggenheim should have issued an apology to the public rather than using their press release to “cover up what they’ve done by a claim that they did so on the grounds of security.”¹⁰⁶

There were also various organizations, artists, and art world professionals who supported the Guggenheim’s inclusion of the three works in their original states and regretted that the Guggenheim pulled them from the show. PEN America, a nonprofit

¹⁰⁵ Pogrebin and Deb, “Guggenheim Museum.”

¹⁰⁶ Pogrebin and Deb, “Guggenheim Museum.”

dedicated to freedom of expression, released a statement in support of the Guggenheim based on artworks' protection under the First Amendment, stating:

Even artistic expression that deeply offends is not a justification for threatened or actual violence. The outcome in this case sets a worrying precedent that controversial voices and outlier perspectives can be forced into silence through mass outcry, public pressure and threats.¹⁰⁷

Drawing upon the Guggenheim's official press release that stated their removal of the works was due to threats from the public, PEN American further emphasizes that threats of violence are never acceptable, especially not in response to artistic expression, and voices their concern that the public will threaten other museums over works of art in the future as a form of forced censorship.

Ai Weiwei, famous Chinese contemporary artist whose work was featured in the Guggenheim's exhibition, publicly expressed his disapproval of the Guggenheim's decision to remove the works. Ai Weiwei stated that it is "tragic for a modern society" when an art institution cannot exercise freedom of speech and expression and believes that pressuring museums to remove artworks from exhibitions shows a "narrow understanding about not only animal rights but also human rights."¹⁰⁸ *The New York Times* editorial board agreed with Ai, citing the First Amendment as its primary reason for opposing the Guggenheim's decision to pull the three works. The editorial board boldly asserted that the show became "an exhibition of irony" since the artists were using

¹⁰⁷ Brian Boucher, "Ai Weiwei Defends the Guggenheim's China Show Against Animal Rights Protests," *Artnet News*, Published September 27, 2017, Accessed November 2, 2018, <https://news.artnet.com/art-world/ai-weiwei-guggenheim-animal-artwork-censorship-1097036>. (For full statement, see Appendix 8.)

¹⁰⁸ Boucher, "Ai Weiwei."

art to comment on the Chinese government's suppression, yet were being further suppressed in the "land of the free."¹⁰⁹

There were also people who did not feel strongly attached to one side of the debate, but rather sympathized with both the ethical issues that animal rights activists have as well as artworks' legal right to be displayed under the First Amendment so long as they are not deemed obscene by *Miller* standards. Holland Cotter, co-chief art critic of *The New York Times*, wrote about his disapproval of *Dogs That Cannot Touch Each Other* (2003) stating that "forc[ing] animals to serve and suffer as stand-ins for human evil is wrong" and arguing that removing the works "is not censorship [but] consciousness-raising." However, Cotter also argues that while he opposes the works themselves, he regrets that the works were removed because they serve as vehicles for necessary discourse, stating that "their presence provided for a kind of ethical argument that the art world rarely engages in."¹¹⁰

vii. Analysis of the Guggenheim's Decision and Response

The Guggenheim, while disappointed that they removed Huang Yong Ping's *Theater of the World* (1993), Xu Bing's *A Case Study of Transference* (1994) and Sun Yuan and Peng Yu's *Dogs That Cannot Touch Each Other* (2003) in their original conditions from the *Art and China after 1989: Theater of the World* exhibition, acted in the best interest of its staff, artists, and visitors. It is important to note that the Guggenheim did not act in complete accordance with its mission statement because they

¹⁰⁹ The Editorial Board, "The Guggenheim Surrenders on Free Expression," *The New York Times*, Published October 13, 2017, Accessed November 2, 2018, <https://www.nytimes.com/2017/10/13/opinion/editorials/the-guggenheim-surrenders-on-free-expression.html>.

¹¹⁰ Cotter, "From Innovation to Provocation."

removed the works, although it is understandable that the museum made an exception in this case given the threats of violence, which were not present in the Met and the Whitney controversies. The Guggenheim still, however, cleverly invoked its mission statement and the First Amendment in their official press release, implying that had there not been threats made, the museum would have acted in a manner that is more aligned with its mission and values.

The Guggenheim was justified in its decision not to remove the works entirely, but to “alter” the works by displaying *Theater of the World* (1993) without any live animals and showing the monitors for *A Case Study of Transference* (1994) and *Dogs That Cannot Touch Each Other* (2003) without any video playing. Furthermore, it was appropriate of the Guggenheim to include a written explanation for why they did not display the works as originally intended so that the artists’ intentions could be somewhat preserved and so that public could learn from and about the controversy.

Despite handling the alteration of the works in a justifiable and appropriate manner, the Guggenheim should not have framed their response in a way that sheds a negative light on animal rights organizations, activists, and protestors. While threats of violence should always be condemned, the museum as a steward of culture and pillar of society should have been compassionate to the protestors in their response and stated that they pulled the works not solely due to threats, but because it is the ethically responsible decision. The Met and the Whitney both spoke empathetically to the people that were offended by the works in their respective controversies, while the Guggenheim did not and would have benefitted from doing so. As a result, the Guggenheim is risking pushing

people away from supporting the museum by instilling the idea that they will not always make exhibition decisions based on the public's ethical concerns.

viii. Why This Controversy Matters to Animal Rights Activism and the Digital Age

The controversy surrounding the display of three works featuring potential animal abuse in the Guggenheim's *Art and China after 1989: Theater of the World* exhibition further proves how impactful visual art can be and demonstrates that art institutions in New York City are once again facing formidable protests similar to those of the 1990s. It is significant when one of the most internationally acclaimed museums is subject to accusations of supporting animal cruelty and threats of violence that ultimately caused the museum to remove the works from display. Furthermore, this controversy at the Guggenheim is representative of the current unrest and disruption in American society where people, organizations, and activists are more willing than ever to point out and fight against the immoral behavior of large institutions – including art museums – through online petitions and public protests. While animal rights activism may not be as prominent as the #MeToo or Black Lives Matter movements in today's society, it is clear that protests directed at institutions of power are frequent, prevalent, and influential no matter what the core issue may be.

The petition and protest against the Guggenheim's inclusion of *Theater of the World* (1993), *A Case Study of Transference* (1994), and *Dogs That Cannot Touch Each Other* (2003) in their original states also emphasizes the ever-important role of the Internet in museum controversies. Guggenheim Director Richard Armstrong stated that he regrets that information can be spread so instantaneously and vastly online because it caused the scandal to go viral for the whole world to see and comment on. Perhaps his

disdain for the viral nature of this controversy implies his belief that had there been no virtual petition shared so widely, the Guggenheim may not have received any violent threats nor needed to remove any works in the exhibition.

The controversy over *Theater of the World* (1993), *A Case Study of Transference* (1994), and *Dogs That Cannot Touch Each Other* (2003) at the Guggenheim reveals that the opportunity for public discourse can be dramatically narrowed – for better or for worse – in a museum environment when enough people take a public stand against the display of potentially offensive, immoral, or unethical artworks,¹¹¹ proving how influential and successful protesting in America can be.

¹¹¹ JJ Charlesworth, “Should the Guggenheim have pulled controversial animal artworks?,” *CNN*, Published October 4, 2017, Accessed November 2, 2018, <http://www.cnn.com/style/article/guggenheim-controversial-animal-artworks/index.html>.

CONCLUSION

This thesis has discussed three significant museum controversies from 2017 to 2018 at the most prestigious New York City art institutions as well as analyzed the museums' responses to their respective controversy. The Metropolitan Museum of Art, the Whitney Museum of American Art, and the Solomon R. Guggenheim Museum are all regarded as cultural stewards and havens for free thinking and learning. Thus, when a scandal erupts over the display of controversial artworks that the public views as offensive due to relevant sociopolitical issues, the museum becomes an integral part of the conversation about that underlying issue. When a museum is confronted with a controversy due to protest and public backlash, the museum is forced to rethink, and potentially reshape, its mission and values, exhibition programming, and larger role in society. A museum may choose to display controversial art and become more involved with public discourse regarding important social issues, or museums may choose to avoid displaying controversial art and risk self-censorship – both highly impactful decisions for better or for worse.

The sociopolitical conditions since 2016 cause museums' responses to controversies over works of art to be significantly more influential and pressing. American society is currently in a state of unrest in which the public is calling out powerful people and institutions for their wrongdoings and immoral actions, with museums falling under the category of powerful institutions as they are important pillars of society that serve the public. Perhaps museums are easier targets of protest and criticism compared to other powerful institutions, such as the federal government, because they are meant to be neutral havens of self-expression rather than a seemingly

oppressive governing force. Furthermore, as discussed throughout this thesis, visual art has the unique ability to provoke intense emotional, physiological, and behavioral responses in viewers, therefore making art institutions even more susceptible to strong public reactions. Art world scholars and professionals have noted that art has become the new battleground on which people protest against issues plaguing society such as sexual abuse, racial tensions, and animal abuse as demonstrated by the three case studies.

Not only has public protest increased in the last two years due to pivotal events and changes in American society, but it has also never been easier to spread one's opinions, whether positive or negative, on a viral scale. We are currently in a digital age, and due to the Internet and social media in particular, any individual is able to comment on, criticize, and protest online for millions of others to read and share. Mia Merrill's and Stephanie Lewis' online petitions, for example, were shared widely on social media and signed by tens of thousands of supporters as a result. The rapid speed at which the public's petitions and criticisms can be spread online forces museums to respond to controversies quicker and more efficiently than ever before.

The vital question that this thesis seeks to answer is: what should museums learn from the controversies at the Met, the Whitney, and the Guggenheim, and how can museums improve their responses to them in the future? Ultimately, not all museum controversies merit the same response and crisis management solution. For instance, response plans may vary depending on whether the work of art that sparked protest is part of a museum's permanent collection versus a temporary exhibition, whether the work was created by an artist solidified in the art historical canon versus a lesser-known contemporary artist, or whether the museum follows a more traditional model versus a

more experimental model. While most museum controversies should be treated on a case-by-case basis, there are general guidelines that museums should follow based on the analysis of the three case studies.

The first, and most important, guideline is to use a well-crafted mission statement as a basis for decision-making. Mission statements can be employed to justify a museum's response to a controversy and serve as a way to assert autonomy when making difficult or pressing decisions. When a museum faces protest against certain works of art on view, it is vital that its mission statement include a line about its commitment to the First Amendment because the museum can refer to this specific line as a defense if it chooses not to remove the controversial work from display. Furthermore, if a museum's mission statement does not align with how the museum chooses to respond to a controversy, it is necessary to alter the mission statement as it should accurately reflect the museum's values and problem-solving approaches.

Another critical guideline for museums is to speak compassionately to and about the protestors, even if they are threatening such as in the Guggenheim's case. In the Met and the Whitney's public statements and press releases, both museums expressed empathy, stating that they understood why the protestors were concerned about the display of *Thérèse Dreaming* (1938) and *Open Casket* (2016). While the Met and the Whitney did not appease the protestors by removing the works from view, they emphasized that they cared about their visitors' concerns and appreciated that they were voicing their opinions because the goal of displaying controversial art is to use the art as a vehicle for engaging in difficult conversations.

Moreover, creating a platform for those conversations is a crucial guideline for museums to follow. If a museum claims to be a forum for free thinking and defends the display of controversial art based on its ability to spark conversations about serious issues, then it is necessary for the museum to create a space for those conversations in the form of public events, lectures, or panel discussions. The Whitney set a good example of this idea by holding a public event that was specifically created for visitors to share their perspectives on and opinions about Dana Schutz's *Open Casket* (2016) and racial tensions in America.

The last guideline museums should follow is to avoid shedding a negative light and placing blame on protestors – or, more generally, people that oppose the museum's display of controversial artwork – in its online, verbal, or written public statements. In the Guggenheim's case, for example, the museum's official statements shed a negative light and blame on those who opposed the display of the three works, thus the Guggenheim risked alienating potential visitors. Responding to controversies in a positive manner, even if that means withholding the museum's true sentiments, is vital in maintaining a safe and welcoming atmosphere for visitors, especially during this particularly divisive and protest-ridden time. All in all, museums across the globe can learn from the Met, the Whitney, and the Guggenheim's decisions and responses to their respective controversies in 2017 and 2018 in order to improve future responses and reshape their role as cultural stewards in society.

ILLUSTRATIONS



Figure 1. Chris Ofili, *The Holy Virgin Mary*, 1996. Image courtesy of the Museum of Modern Art.



Figure 2. Balthus (Balthasar Klossowski), *Thérèse Dreaming*, 1938. Image courtesy of the Metropolitan Museum of Art.



Figure 3. Dana Schutz, *Open Casket*, 2016. Image courtesy of the Whitney Museum of American Art.



Figure 4. Parker Bright wearing “BLACK DEATH SPECTACLE” t-shirt while protesting in front of *Open Casket* (2016). Photo courtesy of Scott W.H. Young.

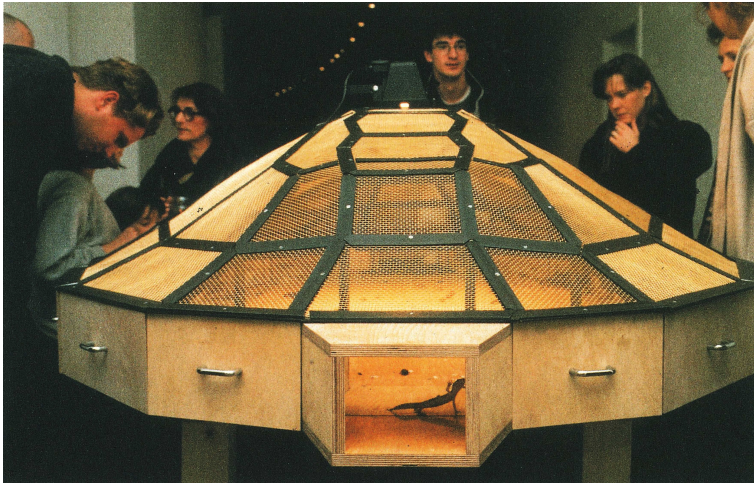


Figure 5. Huang Yong Ping, *Theater of the World*, 1993. Photo courtesy of *The Los Angeles Times*.

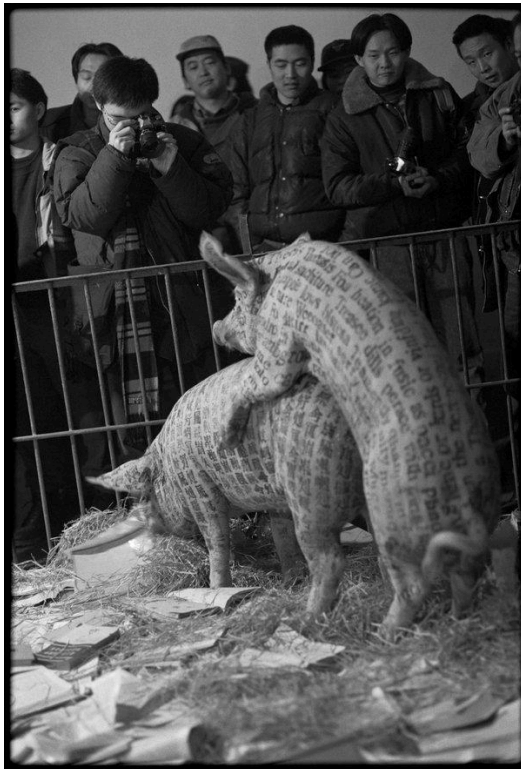


Figure 6. Xu Bing, *A Case Study of Transference*, 1994, photograph from live performance Image courtesy of *The New York Times*.



Figure 7. Sun Yuan and Peng Yu, *Dogs That Cannot Touch Each Other*, 2003, photograph from live performance. Image courtesy of Artnet News.



Figure 8. Huang Yong Ping, *Theater of the World*, 1993, and *The Bridge*, 1995 on display at the Guggenheim in New York. Photo courtesy of *The New York Times*.

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APPENDIX

1. Our goal is decidedly not to avoid controversy, to avoid challenging people—that isn't the kind of freedom of expression that world-class cultural institutions are committed to. Instead, our commitment is to the responsible presentation of ideas and objects that enlighten and enrich our experience as human beings, and there's no question that Balthus does that. So we will continue, as it were, to present objects and exhibitions that will offend some people. I also take seriously the concerns that people have that some works of art are offensive to them, and I invite them not to see those works of art. They can leave the gallery, they can turn away, they can even organize a petition or write an article. All of those we celebrate. That's part of what our society is dedicated to. I do worry that we live in a time where people want to avoid being confronted by ideas they disagree with. We don't know how to debate. We're losing the ability to live in a society where freedom of expression is something we navigate on a day-to-day basis as part of what it means to live in a functioning democracy. Our job as an art museum is to contribute to that main wellspring of cultural, intellectual richness by bringing forward programming that both inspires and offends.
2. The protesters' claim that displaying the painting implies institutional approval of an unhealthy sexualization of young women also fundamentally misconstrues the role of cultural institutions, which is to facilitate a diverse public's engagement with a rich array of cultures and objects by framing and contextualizing them. Recent cases of censorship, including the threats of violence that forced the Guggenheim Museum in New York to remove several exhibits, reveal a disturbing trend of attempts to stifle art that engages difficult subjects. Art can often offer insights into difficult realities and, as such, merits vigorous defense. NCAC applauds The Met's refusal to bow to its critics. We will continue to support cultural institutions that allow members of the public to make up their own minds about what is "offensive."
3. To the curators and staff of the Whitney Biennial:

I am writing to ask you to remove Dana Schutz's painting *Open Casket* with the urgent recommendation that the painting be destroyed and not entered into any market or museum.

As you know, this painting depicts the dead body of 14-year-old Emmett Till in the open casket that his mother chose, saying, "Let the people see what I've seen." That even the disfigured corpse of a child was not sufficient to move the white gaze from its habitual cold calculation is evident daily and in a myriad of ways, not least the fact that this painting exists at all. In brief: The painting should not be acceptable to anyone who cares or pretends to care about Black people because it is not acceptable

for a white person to transmute Black suffering into profit and fun, though the practice has been normalized for a long time.

Although Schutz's intention may be to present white shame, this shame is not correctly represented as a painting of a dead Black boy by a white artist—those non-Black artists who sincerely wish to highlight the shameful nature of white violence should first of all stop treating Black pain as raw material. The subject matter is not Schutz's; white free speech and white creative freedom have been founded on the constraint of others, and are not natural rights. The painting must go.

Emmett Till's name has circulated widely since his death. It has come to stand not only for Till himself but also for the mournability (to each other, if not to everyone) of people marked as disposable, for the weight so often given to a white woman's word above a Black child's comfort or survival, and for the injustice of anti-Black legal systems. Through his mother's courage, Till was made available to Black people as an inspiration and warning. Non-Black people must accept that they will never embody and cannot understand this gesture: The evidence of their collective lack of understanding is that Black people go on dying at the hands of white supremacists, that Black communities go on living in desperate poverty not far from the museum where this valuable painting hangs, that Black children are still denied childhood. Even if Schutz has not been gifted with any real sensitivity to history, if Black people are telling her that the painting has caused unnecessary hurt, she and you must accept the truth of this. The painting must go.

Ongoing debates on the appropriation of Black culture by non-Black artists have highlighted the relation of these appropriations to the systematic oppression of Black communities in the US and worldwide, and, in a wider historical view, to the capitalist appropriation of the lives and bodies of Black people with which our present era began. Meanwhile, a similarly high-stakes conversation has been going on about the willingness of a largely non-Black media to share images and footage of Black people in torment and distress or even at the moment of death, evoking deeply shameful white American traditions such as public lynching. Although derided by many white and white-affiliated critics as trivial and naive, discussions of appropriation and representation go to the heart of the question of how we might seek to live in a reparative mode, with humility, clarity, humor, and hope, given the barbaric realities of racial and gendered violence on which our lives are founded. I see no more important foundational consideration for art than this question, which otherwise dissolves into empty formalism or irony, into a pastime or a therapy.

The curators of the Whitney Biennial surely agree, because they have staged a show in which Black life and anti-Black violence feature as themes, and been approvingly reviewed in major publications for doing so. Although it is possible that this inclusion means no more than that blackness is hot right now, driven into non-Black consciousness by prominent Black uprisings and struggles across the US and elsewhere, I choose to assume as much capacity for insight and sincerity in the biennial curators as I do in myself. Which is to say—we all make terrible mistakes

sometimes, but through effort the more important thing could be how we move to make amends for them and what we learn in the process. The painting must go.

Thank you for reading,

Hannah Black

Artist/writer

Whitney Independent Studies Program 2013–14

4. It is very important to keep in mind...that there is a divide between what the public perceives and what the curation intends to be perceived by the public. With that in mind, Dana Schutz's *Open Casket* depicting Emmett Till's already mutilated face finds itself within a negative space, one that may start a conversation but it does not do justice, nor shines a new light on an issue that still pervades (THE ONE OF BLACK AMERICANS BEING KILLED BY THE HANDS OF WHITE SUPREMACY), especially from my own perspective as an African American and artist.
5. There were many reasons why I could not, should not, make this painting. The photograph is an icon of the Civil Rights Movement and a sacred image. I am also a white woman. I would not have made this painting when I was younger, before I had a son. I only thought about the possibility of painting it after listening to interviews with Till's mother. In her sorrow and rage she wanted her son's death not just to be her pain but America's pain.

It was the feeling of understanding and sharing the pain, the horror. I could never, ever know her experience, but I know what it is to love your child. I don't know if there would be a way to address the subject without some way of approaching it on a personal level.

I made this painting in August of 2016 after a summer that felt like a state of emergency—there were constant mass shootings, racist rallies filled with hate speech, and an escalating number of camera-phone videos of innocent black men being shot by police. The photograph of Emmett Till felt analogous to the time: what was hidden was now revealed. The painting is very different from the photograph. I could never render the photograph ethically or emotionally. I always had issues with making this painting, everything about it. And it is still uncertain for me.

The anger surrounding this painting is real and I understand that. It's a problematic painting and I knew that getting into it. I do think that it is better to try to engage something extremely uncomfortable, maybe impossible, and fail, than to not respond at all.

6. The 2017 Whitney Biennial brings to light many facets of the human experience, including conditions that are painful or difficult to confront such as violence, racism, and death. Many artists in the exhibition push in on these issues, seeking empathetic connections in an especially divisive time. Dana Schutz's painting, *Open Casket* (2016), is an unsettling image that speaks to the long-standing violence that has been inflicted upon African Americans. For many African Americans in particular, this image has tremendous emotional resonance. By exhibiting the painting we wanted to acknowledge the importance of this extremely consequential and solemn image in American and African American history and the history of race relations in this country. As curators of this exhibition we believe in providing a museum platform for artists to explore these critical issues.
7. Out of concern for the safety of its staff, visitors, and participating artists, the Solomon R. Guggenheim Museum has decided against showing the art works *Dogs That Cannot Touch Each Other* (2003), *Theater of the World* (1993), and *A Case Study of Transference* (1994) in its upcoming exhibition *Art and China after 1989: Theater of the World*. Although these works have been exhibited in museums in Asia, Europe, and the United States, the Guggenheim regrets that explicit and repeated threats of violence have made our decision necessary. As an arts institution committed to presenting a multiplicity of voices, we are dismayed that we must withhold works of art. Freedom of expression has always been and will remain a paramount value of the Guggenheim.
8. While vigorous debate over the works planned for exhibition at the Guggenheim is legitimate and people are free to voice impassioned views, that threats of violence became grounds for the cancellation of the works represents a major blow to artistic freedom. Even artistic expression that deeply offends is not a justification for threatened or actual violence. The outcome in this case sets a worrying precedent that controversial voices and outlier perspectives can be forced into silence through mass outcry, public pressure and threats. Those who celebrate the removal of these works should consider what gets removed next, and at whose behest.